

plicable financial secrecy laws, or to obtain the records so that such records can be made available notwithstanding such secrecy laws,

the refusal of the claimant to provide the records in response to a discovery request or to take the action necessary otherwise to make the records available shall be grounds for judicial sanctions, up to and including dismissal of the claim with prejudice.

(2) PRIVILEGE.—This subsection shall not affect the right of the claimant to refuse production on the basis of any privilege guaranteed by the Constitution of the United States or any other provision of Federal law.

(Added Pub. L. 102-550, title XV, §1523(a), Oct. 28, 1992, 106 Stat. 4063; amended Pub. L. 103-325, title IV, §411(c)(2)(E), Sept. 23, 1994, 108 Stat. 2253; Pub. L. 106-185, §17, Apr. 25, 2000, 114 Stat. 221.)

#### REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (a), is title II of Pub. L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

Section 985 of this title, referred to in subsec. (a), was enacted by Pub. L. 106-185, and relates to civil forfeitures of real property and not to procedures and limitations for subpoenas. The reference to section 985 was included in this section when it was enacted by Pub. L. 102-550, but at that time there was no section 985 of this title.

The Federal Rules of Civil Procedure, referred to in subsec. (c), are set out in Title 28, Appendix, Judiciary and Judicial Procedure.

#### AMENDMENTS

2000—Subsec. (d). Pub. L. 106-185 added subsec. (d).  
1994—Subsec. (a). Pub. L. 103-325 substituted “section 5322 or 5324 of title 31” for “section 5322 of title 31”.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-185 applicable to any forfeiture proceeding commenced on or after the date that is 120 days after Apr. 25, 2000, see section 21 of Pub. L. 106-185, set out as a note under section 1324 of Title 8, Aliens and Nationality.

### CHAPTER 47—FRAUD AND FALSE STATEMENTS

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#### AMENDMENTS

2003—Pub. L. 108-187, §4(a)(2), Dec. 16, 2003, 117 Stat. 2705, added item 1037.  
2000—Pub. L. 106-547, §2(b), Dec. 19, 2000, 114 Stat. 2739, added item 1036.  
1998—Pub. L. 105-318, §3(h)(2), Oct. 30, 1998, 112 Stat. 3009, inserted “and information” at end of item 1028.  
1996—Pub. L. 104-294, title VI, §601(f)(8), Oct. 11, 1996, 110 Stat. 3500, substituted “veteran's facilities” for “veterans' facilities” in item 1024.  
Pub. L. 104-191, title II, §244(b), Aug. 21, 1996, 110 Stat. 2017, added item 1035.  
1994—Pub. L. 103-322, title XXXII, §320603(b), Sept. 13, 1994, 108 Stat. 2118, added items 1033 and 1034.  
1990—Pub. L. 101-647, title XXV, §2501(b), title XXXV, §3532, Nov. 29, 1990, 104 Stat. 4860, 4925, inserted a period after “1031” and added item 1032.  
1989—Pub. L. 101-73, title IX, §§961(g)(2), 962(a)(4), Aug. 9, 1989, 103 Stat. 500, 502, struck out item 1008 “Federal Savings and Loan Insurance Corporation transactions” and item 1009 “Rumors regarding Federal Savings and Loan Insurance Corporation”.  
1988—Pub. L. 100-700, §2(c), Nov. 19, 1988, 102 Stat. 4632, added item 1031.  
1984—Pub. L. 98-473, title II, §§1602(b), 2102(b), Oct. 12, 1984, 98 Stat. 2184, 2192, added items 1029 and 1030.  
1982—Pub. L. 97-398, §3, Dec. 31, 1982, 96 Stat. 2010, added item 1028.  
1974—Pub. L. 93-406, title I, §111(a)(2)(B)(iii), Sept. 2, 1974, 88 Stat. 852, substituted “Employee Retirement Income Security Act of 1974” for “Welfare and Pension Plans Disclosure Act” in item 1027.

<sup>1</sup> Section catchline amended by Pub. L. 108-21 without corresponding amendment of chapter analysis.

1967—Pub. L. 90-19, §24(e), May 25, 1967, 81 Stat. 28, included “Department of Housing and Urban Development” in item 1010, and substituted the same for “Public Housing Administration” in item 1012.

1962—Pub. L. 87-420, §17(d), Mar. 20, 1962, 76 Stat. 42, added item 1027.

1951—Act Oct. 31, 1951, ch. 655, §25, 65 Stat. 720, substituted “Public Housing Administration” for “United States Housing Authority” in item 1012.

1949—Act May 24, 1949, ch. 139, §§18, 19, 63 Stat. 92, corrected spelling in item 1012 and substituted “officers” for “offices” in item 1019.

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 12a; title 15 sections 780, 80b-3, 7703; title 29 section 1031.

### § 1001. Statements or entries generally

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) makes any materially false, fictitious, or fraudulent statement or representation; or

(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title or imprisoned not more than 5 years, or both.

(b) Subsection (a) does not apply to a party to a judicial proceeding, or that party’s counsel, for statements, representations, writings or documents submitted by such party or counsel to a judge or magistrate in that proceeding.

(c) With respect to any matter within the jurisdiction of the legislative branch, subsection (a) shall apply only to—

(1) administrative matters, including a claim for payment, a matter related to the procurement of property or services, personnel or employment practices, or support services, or a document required by law, rule, or regulation to be submitted to the Congress or any office or officer within the legislative branch; or

(2) any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress, consistent with applicable rules of the House or Senate.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-292, §2, Oct. 11, 1996, 110 Stat. 3459.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §80 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U.S.C., 1940 ed., was divided into two parts.

The provision relating to false claims was incorporated in section 287 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Words “or any corporation in which the United States of America is a stockholder” in said section 80 were omitted as unnecessary in view of definition of “agency” in section 6 of this title.

In addition to minor changes of phraseology, the maximum term of imprisonment was changed from 10 to 5 years to be consistent with comparable sections. (See reviser’s note under section 287 of this title.)

#### AMENDMENTS

1996—Pub. L. 104-292 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both.”

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

#### CHANGE OF NAME

Reference to United States magistrate or to magistrate deemed to refer to United States magistrate judge pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

#### SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108-21, title VI, §607(a), Apr. 30, 2003, 117 Stat. 689, provided that: “This section [amending section 1028 of this title] may be cited as the ‘Secure Authentication Feature and Enhanced Identification Defense Act of 2003’ or ‘SAFE ID Act’.”

#### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-578, §1, Dec. 28, 2000, 114 Stat. 3075, provided that: “This Act [amending section 1028 of this title, repealing section 1738 of this title, and enacting provisions set out as notes under section 1028 of this title] may be cited as the ‘Internet False Identification Prevention Act of 2000’.”

#### SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105-318, §1, Oct. 30, 1998, 112 Stat. 3007, provided that: “This Act [amending sections 982, 1028, and 2516 of this title and section 105 of the Ethics in Government Act of 1978, Pub. L. 95-521, set out in the Appendix to Title 5, Government Organization and Employees, and enacting provisions set out as notes under section 1028 of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Identity Theft and Assumption Deterrence Act of 1998’.”

Pub. L. 105-172, §1, Apr. 24, 1998, 112 Stat. 53, provided that: “This Act [amending section 1029 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Wireless Telephone Protection Act’.”

#### SHORT TITLE OF 1996 AMENDMENT

Section 1 of Pub. L. 104-292 provided that: “This Act [amending this section, sections 1515 and 6005 of this title, and section 1365 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘False Statements Accountability Act of 1996’.”

#### SHORT TITLE OF 1994 AMENDMENT

Section 290001(a) of Pub. L. 103-322, as amended by Pub. L. 104-294, title VI, §604(b)(34), Oct. 11, 1996, 110 Stat. 3508, provided that: “This section [amending section 1030 of this title] may be cited as the ‘Computer Abuse Amendments Act of 1994’.”

#### SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-647, title XXV, §2500, Nov. 29, 1990, 104 Stat. 4859, provided that: “This title [see Tables for classification] may be cited as the ‘Comprehensive

Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990.”

#### SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101-123, § 1, Oct. 23, 1989, 103 Stat. 759, provided that: “This Act [amending section 1031 of this title, repealing section 293 of this title, enacting provisions set out as notes under sections 293 and 1031 of this title, and repealing provisions set out as a note under section 293 of this title] may be cited as the ‘Major Fraud Act Amendments of 1989.’”

#### SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-700, § 1, Nov. 19, 1988, 102 Stat. 4631, provided that: “This Act [enacting sections 293 and 1031 of this title and section 256 of Title 41, Public Contracts, amending section 2324 of Title 10, Armed Forces, and section 3730 of Title 31, Money and Finance, enacting provisions set out as notes under sections 293 and 1031 of this title, section 2324 of Title 10, and section 522 of Title 28, Judiciary and Judicial Procedure, and repealing provisions set out as a note under section 2324 of Title 10] may be cited as the ‘Major Fraud Act of 1988.’”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-474, § 1, Oct. 16, 1986, 100 Stat. 1213, provided that: “This Act [amending section 1030 of this title] may be cited as the ‘Computer Fraud and Abuse Act of 1986.’”

#### SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-473, title II, § 1601, Oct. 12, 1984, 98 Stat. 2183, provided that: “This chapter [chapter XVI (§§ 1601-1603) of title II of Pub. L. 98-473, enacting section 1029 of this title and provisions set out as a note under section 1029 of this title] may be cited as the ‘Credit Card Fraud Act of 1984.’”

Pub. L. 98-473, title II, § 2101, Oct. 12, 1984, 98 Stat. 2190, provided that: “This chapter [chapter XXI (§§ 2101-2103) of title II of Pub. L. 98-473, enacting section 1030 of this title and provisions set out as a note under section 1030 of this title] may be cited as the ‘Counterfeit Access Device and Computer Fraud and Abuse Act of 1984.’”

#### SHORT TITLE OF 1982 AMENDMENT

Section 1 of Pub. L. 97-398 provided: “That this Act [enacting sections 1028 and 1738 of this title and amending section 3001 of Title 39, Postal Service] may be cited as the ‘False Identification Crime Control Act of 1982.’”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 981, 982, 1345 of this title; title 2 section 437g; title 7 sections 12a, 136h, 511r, 1314i, 5662, 6519; title 8 section 1324a; title 12 section 1833a; title 15 sections 637, 657a, 6003; title 17 section 1312; title 19 sections 2515, 3391, 3432; title 21 section 374; title 22 sections 1623, 3622; title 35 section 25; title 40 section 3145; title 42 sections 2000b-3, 2000c-6, 3795a; title 43 section 1212; title 49 sections 5307, 30170; title 50 App. section 566.

### § 1002. Possession of false papers to defraud United States

Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 74 (Mar. 4, 1909, ch. 321, § 30, 35 Stat. 1094).

Words “or any agency thereof” after “United States” and word “agency” after “any” and before “officer,” were inserted to eliminate any possible ambiguity as to scope of section. (See definition of “agency” in section 6 of this title.)

The maximum fine of “\$10,000” was substituted for “\$500” in order to conform punishment provisions to those of comparable sections. (See section 1001 of this title.)

Minor verbal change was made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

### § 1003. Demands against the United States

Whoever knowingly and fraudulently demands or endeavors to obtain any share or sum in the public stocks of the United States, or to have any part thereof transferred, assigned, sold, or conveyed, or to have any annuity, dividend, pension, wages, gratuity, or other debt due from the United States, or any part thereof, received, or paid by virtue of any false, forged, or counterfeited power of attorney, authority, or instrument, shall be fined under this title or imprisoned not more than five years, or both; but if the sum or value so obtained or attempted to be obtained does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 103-322, title XXXIII, § 330016(1)(H), (L), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 79 (Mar. 4, 1909, ch. 321, § 34, 35 Stat. 1095).

Words “prize money” were deleted on the ground that they are an anachronism and were so before 1909. (See reviser’s note under section 915 of this title.)

Mandatory punishment provision was rephrased in the alternative.

The smaller punishment for an offense involving \$100 or less was added. (See reviser’s note to sections 641 and 645 of this title.)

The maximum term of “five years” was substituted for “ten years” and “\$10,000” was substituted for “\$5,000” as being more in harmony with punishment provision of similar sections. (See reviser’s note under section 1001 of this title.)

Minor changes in phraseology were made.

#### AMENDMENTS

1996—Pub. L. 104-294 substituted “\$1,000” for “\$100”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000” after “instrument, shall be” and for “fined not more than \$1,000” after “he shall be”.

### § 1004. Certification of checks

Whoever, being an officer, director, agent, or employee of any Federal Reserve bank, member bank of the Federal Reserve System, insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization

operating under section 25 or section 25(a)<sup>1</sup> of the Federal Reserve Act, certifies a check before the amount thereof has been regularly deposited in the bank, branch, agency, or organization, by the drawer thereof, or resorts to any device, or receives any fictitious obligation, directly or collaterally, in order to evade any of the provisions of law relating to certification of checks, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 749; Pub. L. 101-647, title XXV, §2597(g), Nov. 29, 1990, 104 Stat. 4910; Pub. L. 103-322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 591 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. §5208; July 12, 1882, ch. 290, §13, 22 Stat. 166; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Feb. 25, 1927, ch. 191, §12, 44 Stat. 1231).

Words “be deemed guilty of a misdemeanor and shall” were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title.

Words “on conviction thereof” were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words “in any district court of the United States” were omitted as unnecessary, because section 3231 of this title confers jurisdiction on Federal district courts of all crimes and offenses defined in this title.

Changes were made in phraseology.

#### REFERENCES IN TEXT

Section 3(h) of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813(h) of Title 12, Banks and Banking.

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

1990—Pub. L. 101-647 substituted a comma for “or” after “Federal Reserve bank” and inserted “insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “Federal Reserve System,” and “, branch, agency, or organization,” after “has been regularly deposited in the bank”.

### § 1005. Bank entries, reports and transactions

Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, depository institution holding company, national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a)<sup>1</sup> of the Federal Reserve Act, without authority from the directors of such bank, branch, agency, or organization or company, issues or puts in circulation

any notes of such bank, branch, agency, or organization or company; or

Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

Whoever makes any false entry in any book, report, or statement of such bank, company, branch, agency, or organization with intent to injure or defraud such bank, company, branch, agency, or organization, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, company, branch, agency, or organization, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, company, branch, agency, or organization, or the Board of Governors of the Federal Reserve System; or

Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—

Shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

As used in this section, the term “national bank” is synonymous with “national banking association”; “member bank” means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; “insured bank” includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation; and the term “branch or agency of a foreign bank” means a branch or agency described in section 20(9) of this title. For purposes of this section, the term “depository institution holding company” has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.

(June 25, 1948, ch. 645, 62 Stat. 750; Pub. L. 101-73, title IX, §961(d), Aug. 9, 1989, 103 Stat. 499; Pub. L. 101-647, title XXV, §§2504(d), 2595(a)(3), 2597(h), Nov. 29, 1990, 104 Stat. 4861, 4907, 4910; Pub. L. 107-273, div. B, title IV, §4003(a)(2), Nov. 2, 2002, 116 Stat. 1811.)

#### HISTORICAL AND REVISION NOTES

Based on sections 592, 597 of title 12, U.S.C., 1940 ed., Banks and Banking (R.S. §5209; Dec. 23, 1913, ch. 6, §22(i) as added June 19, 1934, ch. 653, §3, 48 Stat. 1107; Sept. 26, 1918, ch. 177, §7, 40 Stat. 972; Aug. 23, 1935, ch. 614, §316, 49 Stat. 712).

(See reviser's note under section 656 of this title for comprehensive statement of reasons for separating section 592 of title 12, U.S.C., 1940 ed., Banks and Banking, into three revised sections, and section 597 thereof into two revised sections, with the consequent extensive changes in phraseology, style, and arrangement.)

In this section, national bank receivers and Federal reserve agents were not included in the initial enumeration of persons at whom the act is directed, since the provisions of this section, unlike section 656 of this title, are not directed at such receivers and agents.

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

No changes of meaning or substance were made, except that, like said section 656 of this title, the different punishment provisions were reconciled, and one uniform punishment provision was adopted.

The words “shall be deemed guilty of a misdemeanor” were omitted as unnecessary in view of the definition of a misdemeanor in section 1 of this title.

The words “and upon conviction thereof” were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Since section 3231 of this title gives the district court jurisdiction of criminal prosecutions, the words “in any district court of the United States” were omitted as unnecessary.

#### REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§601 et seq.) of chapter 6 of Title 12, Banks and Banking. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

Section 3(w)(1) of the Federal Deposit Insurance Act, referred to in text, is classified to section 1813(w)(1) of Title 12.

#### AMENDMENTS

2002—Pub. L. 107-273, in first par. substituted “Act,” for “Act,” and in third par. inserted “or” at end.

1990—Pub. L. 101-647, §§2504(d), 2595(a)(3)(A), (B), 2597(h), in first par. substituted “depository institution” for “bank or savings and loan”, “national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,” for “national bank or insured bank”, and “of such bank, branch, agency, or organization or company” for “of such bank” in two places, in third par. substituted “bank, company, branch, agency, or organization” for “bank or company” in four places, and in fifth par. substituted “30” for “20” before “years”.

Pub. L. 101-647, §2597(h)(3)(A), in sixth par. struck out “and” after “one of the Federal Reserve Banks”;

Pub. L. 101-647, §2597(h)(3)(B), which, in sixth par., directed insertion of “; and the term ‘branch or agency of a foreign bank’ means a branch or agency described in section 20(9) of this title” before the period, was inserted before period at end of first sentence to reflect the probable intent of Congress and intervening amendment by Pub. L. 101-647, §2595(a)(3)(C). See below.

Pub. L. 101-647, §2595(a)(3)(C), inserted “For purposes of this section, the term ‘depository institution holding company’ has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.” at end of sixth par.

1989—Pub. L. 101-73 in first par. inserted “bank or savings and loan holding company,” after “member bank,” in third par. inserted “or company” after “bank” wherever appearing and substituted a semicolon for the dash after “Federal Reserve System”, added fourth par. reading: “Whoever with intent to defraud the United States or any agency thereof, or any financial institution referred to in this section, participates or shares in or receives (directly or indirectly) any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such financial institution—”, and, in fifth par. substituted “\$1,000,000” for “\$5,000” and “20 years” for “five years”.

#### EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in Comptroller of the Currency, referred to in this section, were not included in transfer of functions of officers, agencies and employees of Department of the Treasury to Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, §1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 981, 982, 1510, 1956, 3293, 3322 of this title; title 12 sections 324, 503, 1785, 1786, 1821, 1828, 1829, 1831k, 1833a, 1847.

### § 1006. Federal credit institution entries, reports and transactions

Whoever, being an officer, agent or employee of or connected in any capacity with the Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation, Farm Credit Administration, Department of Housing and Urban Development, Federal Crop Insurance Corporation, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, or the Farm Credit System Insurance Corporation, a Farm Credit Bank, a bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States or any institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation, or by the National Credit Union Administration Board or any small business investment company, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 750; May 24, 1949, ch. 139, §20, 63 Stat. 92; July 28, 1956, ch. 773, §2, 70 Stat. 714; Pub. L. 85-699, title VII, §704, Aug. 21, 1958, 72 Stat. 698; Pub. L. 87-353, §3(s), Oct. 4, 1961, 75 Stat. 774; Pub. L. 90-19, §24(a), May 25, 1967, 81 Stat. 27; Pub. L. 91-468, §6, Oct. 19, 1970, 84 Stat. 1016; Pub. L. 101-73, title IX, §§961(e), 962(a)(7), (8)(A), Aug. 9, 1989, 103 Stat. 500, 502; Pub. L. 101-624, title XXIII, §2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 101-647, title XVI, §1603, title XXV, §§2504(e), 2595(a)(4), Nov. 29, 1990, 104 Stat. 4843, 4861, 4907; Pub. L. 103-322, title XXXIII, §330004(6), Sept. 13, 1994, 108 Stat. 2141; Pub. L. 106-78, title VII, §767, Oct. 22, 1999, 113 Stat. 1174.)

## HISTORICAL AND REVISION NOTES

## 1948 ACT

Based on sections 1026(b) and 1514(c) of title 7, U.S.C., 1940 ed., Agriculture, sections 264(u), 984, 1121, 1138d(c), 1311, 1441(c), 1467(c) and 1731(c) of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(c) of title 15, U.S.C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, §12B(u), as added June 16, 1933, ch. 89, §8, 48 Stat. 178; July 17, 1916, ch. 245, §31, fourth par., 39 Stat. 383; July 17, 1916, ch. 245, §211(a), as added Mar. 4, 1923, ch. 252, §2, 42 Stat. 1459; Mar. 4, 1923, ch. 252, title II, §216(a), 42 Stat. 1471; Jan. 22, 1932, ch. 8, §16(c), 47 Stat. 11; July 22, 1932, ch. 522, §21(c), 47 Stat. 738; Ex. Ord. No. 6084, Mar. 27, 1933; June 13, 1933, ch. 64, §8(c), 48 Stat. 135; June 16, 1933, ch. 98, §64(c), 48 Stat. 268; Jan. 31, 1934, ch. 7, §13, 48 Stat. 347; June 27, 1934, ch. 847, §512(c), 48 Stat. 1265; Aug. 23, 1935, ch. 614, §101, 49 Stat. 701; July 22, 1937, ch. 517, title IV, §52(b), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, §514(c), 52 Stat. 76; Aug. 14, 1946, ch. 964, §3, 60 Stat. 1064).

Each of the eleven sections from which this section was derived contained similar provisions relating to embezzlement, false entries, and fraudulent issuance or assignment of obligations with respect to one or more named agencies or corporations.

These were divided and the false entry and fraudulent issuance or assignment of obligation provisions of all, form the basis of this section. The remaining provisions of each section, relating to embezzlement and misapplication, form the basis for section 657 of this title. That portion of said section 616(c) of title 15, relating to disclosure of information, forms the basis for section 1904 of this title.

Each revised section condenses and simplifies the constituent provisions without change of substance except as herein indicated.

The punishment provisions in each section were the same except that in section 1026(b) of title 7, U.S.C., 1940 ed., and sections 984, 1121, and 1311 of title 12, U.S.C., 1940 ed., the maximum fine was \$5,000. This consolidated section adopts the \$10,000 maximum fine provided by the seven other sections.

References to persons aiding or abetting contained in sections 984, 1121, and 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, as such persons are made principals by section 2 of this title.

The term "receiver," used in sections 1121 and 1311 of title 12, U.S.C., 1940 ed., with reference to Federal intermediate credit banks and agricultural credit corporations, was omitted as this term is undoubtedly embraced in the phrase "or connected in any capacity with."

The term "or of any department or agency of the United States" was inserted in order to clarify the sweeping provisions against fraudulent acts and to eliminate any possible ambiguity as to scope of section. (See definitions of "department" and "agency" in section 6 of this title.)

Words "shall be deemed guilty of a misdemeanor", contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, in view of definition of misdemeanor in section 1 of this title.

Words "and upon conviction", contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words "in any district court of the United States", contained in section 1311 of title 12, U.S.C., 1940 ed., were omitted as unnecessary, because section 3231 of this title confers jurisdiction on the Federal district courts of all crimes and offenses defined in this title.

The conspiracy provisions of section 1138d(f) of title 12, U.S.C., 1940 ed., Banks and Banking, were not added to this consolidated section for reasons stated in reviser's note under section 493 of this title. (See also reviser's note under section 371 of this title.)

## 1949 ACT

[Section 20] conforms section 1006 of title 18, U.S.C., to administrative practice which in turn was modified

to comply with congressional policy. (See note to sec. 11 [of 1949 Act, set out in Historical and Revision Notes under section 657 of this title]).

## AMENDMENTS

1999—Pub. L. 106-78 inserted "or successor agency" after "Farmers Home Administration" and after "Rural Development Administration".

1994—Pub. L. 103-322 struck out "Reconstruction Finance Corporation," after "in any capacity with the" and "Farmers' Home Corporation," after "Federal Crop Insurance Corporation,".

1990—Pub. L. 101-647, §2595(a)(4), substituted "Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation," for "Home Owners' Loan Corporation," and directed substitution of "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation", for "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" which was executed by making the substitution for "institution the accounts of which are insured by the Federal Deposit Insurance Corporation" to reflect the probable intent of Congress and intervening amendment by Pub. L. 101-647, §1603, see below.

Pub. L. 101-647, §2504(e), substituted "30" for "20" before "years".

Pub. L. 101-647, §1603, substituted "Federal Deposit Insurance Corporation" for "Federal Savings and Loan Insurance Corporation".

Pub. L. 101-624 substituted "Farmers Home Administration, the Rural Development Administration" for "Farmers' Home Administration".

1989—Pub. L. 101-73, §962(a)(8)(A), substituted "the Farm Credit System Insurance Corporation, a Farm Credit Bank, a" for "any land bank, intermediate credit bank,".

Pub. L. 101-73, §962(a)(7), substituted "National Credit Union Administration Board" for "Administrator of the National Credit Union Administration".

Pub. L. 101-73, §961(e), substituted "\$1,000,000" for "\$10,000" and "20 years" for "five years".

1970—Pub. L. 91-468 added National Credit Union Administration and its Administrator to the enumeration of Federal Credit institutions and personnel.

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" for "Federal Housing Administration".

1961—Pub. L. 87-353 struck out reference to Federal Farm Mortgage Corporation.

1958—Pub. L. 85-699 included officers, agents or employees of or connected in any capacity with small business investment companies.

1956—Act July 28, 1956, included officers, agents or employees of or connected in any capacity with any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

1949—Act May 24, 1949, inserted reference Secretary of Agriculture acting through the Farmers' Home Administration.

## EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Corporations of Department of Agriculture, boards of directors and officers of such corporations, Advisory Board of Commodity Credit Corporation, and Farm Credit Administration or any agency, officer or entity of, under, or subject to supervision of said Administration excepted from functions of officers, agencies, and employees transferred to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

## NATIONAL CREDIT UNION ADMINISTRATION

Establishment as independent agency, membership etc., see section 1752 et seq. of Title 12, Banks and Banking.

## FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, func-

tion, etc., see Ex. Ord. No. 6084, set out prec. section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 981, 982, 1510, 1956, 3056, 3293, 3322 of this title; title 12 sections 1785, 1786, 1787, 1821, 1828, 1829, 1831k, 1833a, 2277a-10b.

### § 1007. Federal Deposit Insurance Corporation transactions

Whoever, for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, knowingly makes or invites reliance on a false, forged, or counterfeit statement, document, or thing shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

(June 25, 1948, ch. 645, 62 Stat. 750; Pub. L. 101-73, title IX, § 961(f), Aug. 9, 1989, 103 Stat. 500; Pub. L. 101-647, title XXV, § 2504(f), Nov. 29, 1990, 104 Stat. 4861; Pub. L. 103-322, title XXXIII, § 330002(c), Sept. 13, 1994, 108 Stat. 2140.)

#### HISTORICAL AND REVISION NOTES

Based on section 264(s) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 12B(s), as added June 16, 1933, ch. 89, § 8, 48 Stat. 177; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 700).

Words "Federal Deposit Insurance" were inserted before "Corporation" in three places, so as to identify said Corporation, and phrase "under this section" was omitted as no longer applicable, considering transfer of this section to this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted "transactions" for "Transactions" in section catchline.

1990—Pub. L. 101-647 substituted "30" for "20" before "years".

1989—Pub. L. 101-73 substituted "Transactions" for "transactions" in section catchline and amended text generally. Prior to amendment, text read as follows: "Whoever, for the purpose of obtaining any loan from the Federal Deposit Insurance Corporation, or any extension or renewals thereof, or the acceptance, release, or substitution of security therefor, or for the purpose of inducing the Federal Deposit Insurance Corporation to purchase any assets, or for the purpose of obtaining the payment of any insured deposit or transferred deposit or the allowance, approval, or payment of any claim, or for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, makes any statement, knowing it to be false, or willfully overvalues any security, shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 981, 982, 1510, 1956, 3056, 3293, 3322 of this title; title 12 sections 1785, 1786, 1821, 1828, 1829, 1831k, 1833a.

### [§§ 1008, 1009. Repealed. Pub. L. 101-73, title IX, §§ 961(g)(1), 962(a)(3), Aug. 9, 1989, 103 Stat. 500, 502]

Section 1008, act June 25, 1948, ch. 645, 62 Stat. 751, provided for fine or imprisonment for certain prohibited actions taken to obtain insurance from, or to influence in any way, the Federal Savings and Loan Insurance Corporation.

Section 1009, act June 25, 1948, ch. 645, 62 Stat. 751, provided for fine or imprisonment for making certain statements or rumors, untrue in fact, which were de-

rogatory or affected solvency or financial condition of the Federal Savings and Loan Insurance Corporation.

### § 1010. Department of Housing and Urban Development and Federal Housing Administration transactions

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Department of Housing and Urban Development for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such Department, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Department, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 751; Pub. L. 90-19, § 24(c), May 25, 1967, 81 Stat. 28; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 1731(a) of title 12, U.S.C., 1940 ed., Banks and Banking (June 27, 1934, ch. 847, § 512(a), 48 Stat. 1265; Feb. 3, 1938, ch. 13, § 9, 52 Stat. 24).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

"\$5,000" was substituted for "\$3,000" to make this section more consistent in its punishment provisions with comparable sections. (See section 1008 of this title.)

Minor changes in phraseology were made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted "fined under this title" for "fined not more than \$5,000".

1967—Pub. L. 90-19 included reference to Department of Housing and Urban Development in section catchline and substituted in text "Department of Housing and Urban Development" for "Federal Housing Administration" and "Department" for "Administration" in two places, respectively.

### § 1011. Federal land bank mortgage transactions

Whoever, being a mortgagee, knowingly makes any false statement in any paper, proposal, or letter, relating to the sale of any mortgage, to any Federal land bank; or

Whoever, being an appraiser, willfully overvalues any land securing such mortgage—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 751; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 987 of title 12, U.S.C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, seventh paragraph, as added June 16, 1933, ch. 98, § 78, 48 Stat. 272).

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000” in last par.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3056 of this title.

### § 1012. Department of Housing and Urban Development transactions

Whoever, with intent to defraud, makes any false entry in any book of the Department of Housing and Urban Development or makes any false report or statement to or for such Department; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Department or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Department to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special benefit which he expects to receive as a result of such contract—

Shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 752; Oct. 31, 1951, ch. 655, § 26, 65 Stat. 720; Pub. L. 90-19, § 24(d), May 25, 1967, 81 Stat. 28; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on sections 1423-1425 of title 42, U.S.C., 1940 ed., The Public Health and Welfare (Sept. 1, 1937, ch. 896, §§ 23-25, 50 Stat. 899).

Three sections were consolidated with changes of phraseology and arrangement necessary to effect consolidation.

Words “upon conviction thereof”, in each section were omitted as surplusage since punishment cannot be imposed until after conviction.

The provisions of section 1424 of title 42, U.S.C., 1940 ed., The Public Health and Welfare, relating to conspiracy were omitted as inconsistent with the general conspiracy statute, section 371 of this title, both as to punishment and allegation and proof of an overt act. (See reviser’s note under section 493 of this title.)

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000” in last par.

1967—Pub. L. 90-19 substituted “Department of Housing and Urban Development” for “Public Housing Administration” in section catchline and text, and “Department” for “Administration” wherever appearing in text.

1951—Act Oct. 31, 1951, substituted “Public Housing Administration” for “United States Housing Authority” in section catchline and text, and “Administration” for “Authority”, wherever appearing in text.

### § 1013. Farm loan bonds and credit bank debentures

Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan

bond, or coupon, issued by any Federal land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the face of said bond or coupon, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 752; Pub. L. 97-297, § 4(a), Oct. 12, 1982, 96 Stat. 1318; Pub. L. 103-322, title XXXIII, §§ 330004(8), 330016(1)(G), Sept. 13, 1994, 108 Stat. 2141, 2147.)

#### HISTORICAL AND REVISION NOTES

Based on sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, fifth paragraph, 39 Stat. 384; July 17, 1916, ch. 245, § 211(g), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1461; Mar. 4, 1923, ch. 252, title II, § 216(g), 42 Stat. 1473).

This section condenses and simplifies sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, each of which contained similar provisions and similar language. The punishment provisions of all three sections were the same.

References to “chapter” and “subchapter” were omitted and words describing the various types of banks or organizations to which said sections 985, 1127, and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, related, were inserted in lieu. This necessitated some rephrasing and transposition of phrases, but without change of meaning or substance.

Words “upon conviction” which were contained in sections 1127 and 1317 of title 12, U.S.C., 1940 ed., Banks and Banking, were omitted as surplusage, because punishment cannot be imposed until after conviction.

Changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322, § 330016(1)(G), substituted “fined under this title” for “fined not more than \$500”.

Pub. L. 103-322, § 330004(8), struck out “, or by any National Agricultural Credit Corporation” after “credit bank or banks”.

1982—Pub. L. 97-297 struck out “, or by any joint-stock land bank or banks” after “issued by any Federal land bank or banks”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3056 of this title.

### § 1014. Loan and credit applications generally; renewals and discounts; crop insurance

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or security, for the purpose of influencing in any way the action of the Farm Credit Administration, Federal Crop Insurance Corporation or a company the Corporation reinsures, the Secretary of Agriculture acting through the Farmers Home Administration or successor agency, the Rural Development Administration or successor agency, any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof, or of any regional agricultural credit corporation established pursuant to law, or a Federal land bank, a Federal land bank association, a Federal Reserve bank, a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in



connection with any provision of that Act, a Federal credit union, an insured State-chartered credit union, any institution the accounts of which are insured by the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Farm Credit System Insurance Corporation, or the National Credit Union Administration Board, a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a)<sup>1</sup> of the Federal Reserve Act, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both. The term “State-chartered credit union” includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(June 25, 1948, ch. 645, 62 Stat. 752; May 24, 1949, ch. 139, § 21, 63 Stat. 92; July 26, 1956, ch. 741, title I, § 109, 70 Stat. 667; Pub. L. 85-699, title VII, § 705, Aug. 21, 1958, 72 Stat. 699; Pub. L. 86-168, title I, § 104(h), Aug. 18, 1959, 73 Stat. 387; Pub. L. 87-353, § 3(t), Oct. 4, 1961, 75 Stat. 774; Pub. L. 88-353, § 5, July 2, 1964, 78 Stat. 269; Pub. L. 91-468, § 7, Oct. 19, 1970, 84 Stat. 1017; Pub. L. 91-609, title IX, § 915, Dec. 31, 1970, 84 Stat. 1815; Pub. L. 97-297, § 4(b), Oct. 12, 1982, 96 Stat. 1318; Pub. L. 101-73, title IX, §§ 961(h), 962(a)(7), (8)(B), Aug. 9, 1989, 103 Stat. 500, 502; Pub. L. 101-624, title XXIII, § 2303(e), Nov. 28, 1990, 104 Stat. 3981; Pub. L. 101-647, title XXV, §§ 2504(g), 2595(a)(5), 2597(i), Nov. 29, 1990, 104 Stat. 4861, 4907, 4910; Pub. L. 103-322, title XXXIII, §§ 330002(d), 330008(8), Sept. 13, 1994, 108 Stat. 2140, 2143; Pub. L. 103-354, title I, § 119(e), Oct. 13, 1994, 108 Stat. 3208; Pub. L. 104-294, title VI, §§ 602(b), 604(b)(22), 605(b), 607(d), Oct. 11, 1996, 110 Stat. 3503, 3508, 3509, 3511; Pub. L. 106-78, title VII, § 767, Oct. 22, 1999, 113 Stat. 1174; Pub. L. 107-100, § 4(a), Dec. 21, 2001, 115 Stat. 966.)

#### HISTORICAL AND REVISION NOTES

##### 1948 ACT

Based on sections 1026(a) and 1514(a) of title 7, U.S.C., 1940 ed., Agriculture, sections 596, 981, 1122, 1123, 1138d(a), 1248, 1312, 1313, 1441(a), and 1467(a), of title 12, U.S.C., 1940 ed., Banks and Banking, and section 616(a) of title 15, U.S.C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 22(h), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; July 17, 1916, ch. 245, § 31, first paragraph, 39 Stat. 382; July 17, 1916, ch. 245, § 211(b), (c), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; Mar. 4, 1923, ch. 252, title II, §§ 209(h), 216(b), (c), 42 Stat. 1468, 1472; Jan. 22, 1932, ch. 8, § 16 (a), 47 Stat. 11; July 22, 1932, ch. 522, § 21(a), 47 Stat. 738; June 13, 1933, ch. 64, § 8(a), 48 Stat. 134; June 16, 1933, ch. 98, § 64(a), 48 Stat. 267; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 3, 1935, ch. 164, § 21, 49 Stat. 319; July 22, 1937, ch. 517, title IV, § 52(a); 50 Stat. 531; Feb. 16, 1938, ch. 30, title V, § 514(a), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

<sup>1</sup> See References in Text note below.

Each of the 13 sections from which this section was derived contained similar provisions either relating to false representations and statements, or overvaluation of security, with respect to one or more of the named banks, agencies, or corporations.

These were consolidated and the false statement and security overvaluation provisions of all, form the basis of this section. The provisions of section 981 of title 12, U.S.C., 1940 ed., Banks and Banking, relating to acceptance of loans or gratuities by examiners, were consolidated with similar provisions from other sections to form section 218 [now section 213] of this title. The provisions of said section 981 of title 12, U.S.C., 1940 ed., Banks and Banking, prohibiting land bank and national farm loan association examiners from performing “any other service for compensation for any bank or banking or loan association, or for any person connected therewith in any capacity” were consolidated with similar provisions from other sections to form section 1909 of this title.

Eight of the consolidated sections contained identical punishment, each providing for a maximum fine of \$5,000 and maximum imprisonment of 2 years. Two sections provided for a maximum fine of \$10,000 and maximum imprisonment of 5 years. One section provided for maximum fine of \$5,000 and maximum imprisonment of 5 years, one section provided for maximum fine of \$2,000 and maximum imprisonment of 2 years, and one section provided for maximum fine of \$5,000 and maximum imprisonment of 1 year.

The punishment by maximum fine of \$5,000 or maximum imprisonment of 2 years, or both, provided in this consolidated section was adopted as most consistent with the greater number of comparable sections. (See sections 1008 and 1010 of this title.) This is a reasonable reconciliation of the conflicting punishment provisions and adequate for the offenses described.

The enumeration of “application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan” and the wording “or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor” does not occur in any one of the original sections, but such enumeration and such wording are adequate, and they represent a composite of terms and transactions mentioned in each.

In addition, changes were made in phraseology to secure uniformity of style, and some rephrasing was necessary, but the consolidation was without change of substance except as above indicated.

Section 1138d(f) of Title 12, U.S.C., 1940 ed., Banks and Banking, relating to conspiracy, was not added to this consolidated section for reasons given in reviser’s note under section 493 of this title.

##### 1949 ACT

[Section 21] conforms section 1014 of Title 18 U.S.C., to administrative practice which in turn was modified to comply with congressional policy. (See note to sec. 11 [of 1949 Act, set out in Historical and Revision note under section 657 of this title]).

##### REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in text, is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§ 661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

Section 1(b) of the International Banking Act of 1978, referred to in text, is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in text, is classified to subchapter I (§ 601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§ 611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102-242, title I, § 142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

## AMENDMENTS

2001—Pub. L. 107-100 inserted “, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act” after “small business investment company”.

1999—Pub. L. 106-78 inserted “or successor agency” after “Farmers Home Administration” and after “Rural Development Administration”.

1996—Pub. L. 104-294, §§602(b), 607(d), struck out “Reconstruction Finance Corporation,” before “Farm Credit Administration”, “Farmers’ Home Corporation,” before “the Secretary of Agriculture”, and “of the National Agricultural Credit Corporation,” before “a Federal land bank” and inserted at end “The term ‘State-chartered credit union’ includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.”

Pub. L. 104-294, §605(b), amended directory language of Pub. L. 101-73, §961(h)(1). See 1989 Amendment note below.

Pub. L. 104-294, §604(b)(22), amended directory language of Pub. L. 103-322, §330002(d). See 1994 Amendment note below.

1994—Pub. L. 103-354 inserted “or a company the Corporation reinsures” after “Federal Crop Insurance Corporation”.

Pub. L. 103-322, §330008(8), inserted comma after “National Credit Union Administration Board”.

Pub. L. 103-322, §330002(d), as amended by Pub. L. 104-294, §604(b)(22), struck out a comma after “National Agricultural Credit Corporation,” and after “section 25(a) of the Federal Reserve Act.”.

1990—Pub. L. 101-647, §2597(i), inserted “a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act,” after “or the National Credit Union Administration Board”.

Pub. L. 101-647, §2595(a)(5), substituted “the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,” for “the Federal Home Loan Bank System,” and inserted a comma after “Resolution Trust Corporation”.

Pub. L. 101-647, §2504(g), substituted “30” for “20” before “years”.

Pub. L. 101-624 substituted “Farmers Home Administration, the Rural Development Administration” for “Farmers’ Home Administration”.

1989—Pub. L. 101-73, §962(a)(8)(B)(i), substituted “any Farm Credit Bank, production credit association, agricultural credit association, bank for cooperatives, or any division, officer, or employee thereof” for “any Federal intermediate credit bank, or any division, officer, or employee thereof, or of any corporation organized under sections 1131-1134m of Title 12”.

Pub. L. 101-73, §962(a)(8)(B)(ii), substituted “Farm Credit System Insurance Corporation” for “Federal Savings and Loan Insurance Corporation”.

Pub. L. 101-73, §962(a)(7), substituted “National Credit Union Administration Board” for “Administrator of the National Credit Union Administration”.

Pub. L. 101-73, §961(h)(2), (3), (5), (6), struck out “the Federal Savings and Loan Insurance Corporation, any bank the deposits of which are insured by” after “the accounts of which are insured by”, struck out “any member of” before “the Federal Home Loan Bank System”, and substituted “\$1,000,000” for “\$5,000” and “20 years” for “two years”.

Pub. L. 101-73, §961(h)(1), as amended by Pub. L. 104-294, §605(b), struck out “a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners’ Loan Corporation, a Federal Savings and Loan Association” after “National Agricultural Credit Corporation,”.

Pub. L. 101-73, §961(h)(4), which directed the insertion of “the Resolution Trust Corporation” after “Federal

Deposit Insurance Corporation,” was executed by making the insertion after the second appearance of “Federal Deposit Insurance Corporation,” as the probable intent of Congress.

1982—Pub. L. 97-297 struck out “a joint-stock land bank,” after “a Federal land bank,”.

1970—Pub. L. 91-609 extended criminal penalty for fraud or false statements to influence any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, any member of the Federal Home Loan Bank System, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Administrator of the National Credit Union Administration.

Pub. L. 91-468 substituted “a Federal credit union, or an insured State-chartered credit union” for “or a Federal credit union”.

1964—Pub. L. 88-353 inserted reference to Federal credit unions.

1961—Pub. L. 87-353 struck out reference to Federal Farm Mortgage Corporation.

1959—Pub. L. 86-168 substituted “Federal land bank association” for “National farm loan association”.

1958—Pub. L. 85-699 inserted reference to small business investment companies.

1956—Act July 26, 1956, struck out reference to corporations in which a Production Credit Corporation holds stock.

1949—Act May 24, 1949, inserted reference to Secretary of Agriculture acting through the Farmers’ Home Administration.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 604(b)(22) of Pub. L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub. L. 104-294, set out as a note under section 13 of this title.

Section 605(b) of Pub. L. 104-294 provided that the amendment by that section to section 961(h) of Pub. L. 101-73 was effective on the date of enactment of Pub. L. 101-73, which was approved Aug. 9, 1989.

## EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-354 effective Oct. 13, 1994, and applicable to provision of crop insurance under Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with 1995 crop year, with such Act, as in effect on the day before Oct. 13, 1994, to continue to apply with respect to 1994 crop year, see section 120 of Pub. L. 103-354, set out as a note under section 1502 of Title 7, Agriculture.

## EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86-168.

## EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see section 202(a) of that act, set out as an Effective Date note under section 1027 of Title 12, Banks and Banking.

## FARM CREDIT ADMINISTRATION

Establishment of Farm Credit Administration as independent agency, and other changes in status, function, etc., see Ex. Ord. No. 6084 set out prec. section 2241 of Title 12, Banks and Banking. See also section 2001 et seq. of Title 12.

## NATIONAL CREDIT UNION ADMINISTRATION

Establishment as independent agency, membership, etc., see section 1752 et seq. of Title 12, Banks and Banking.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 981, 982, 1510, 1956, 3056, 3293, 3322 of this title; title 12 sections

503, 1785, 1786, 1787, 1821, 1828, 1829, 1831k, 1833a, 2277a–10b.

**§ 1015. Naturalization, citizenship or alien registry**

(a) Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; or

(b) Whoever knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted; or

(c) Whoever uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained; or

(d) Whoever knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens; or

(e) Whoever knowingly makes any false statement or claim that he is, or at any time has been, a citizen or national of the United States, with the intent to obtain on behalf of himself, or any other person, any Federal or State benefit or service, or to engage unlawfully in employment in the United States; or

(f) Whoever knowingly makes any false statement or claim that he is a citizen of the United States in order to register to vote or to vote in any Federal, State, or local election (including an initiative, recall, or referendum)—

Shall be fined under this title or imprisoned not more than five years, or both. Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.

(June 25, 1948, ch. 645, 62 Stat. 752; Pub. L. 103–322, title XXXIII, §330016(1)(K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104–208, div. C, title II, §215, Sept. 30, 1996, 110 Stat. 3009–572; Pub. L. 106–395, title II, §201(d)(2), Oct. 30, 2000, 114 Stat. 1635.)

**HISTORICAL AND REVISION NOTES**

Based on subsections (a), paragraphs (1), (16), (17), (19), (32), (b), (d), and (l) of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, §346(a), pars. (1), (16), (17), (19), (32), (b), (d), and (l), 45 Stat. 1163, 1165, 1167).

Section consolidates, with minor changes, subsection (a), paragraphs (1), (16), (17), (19), (32), and subsections (b), (d), and (l), of section 746 of title 8, U.S.C., 1940 ed., Aliens and Nationality.

Such changes of arrangement and phraseology were made as were appropriate and necessary.

**AMENDMENTS**

2000—Pub. L. 106–395 inserted at end of concluding provisions “Subsection (f) does not apply to an alien if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making the false statement or claim that he or she was a citizen of the United States.”

1996—Subsecs. (e), (f). Pub. L. 104–208 added subsecs. (e) and (f).

1994—Pub. L. 103–322 substituted “fined under this title” for “fined not more than \$5,000” in concluding par.

**EFFECTIVE DATE OF 2000 AMENDMENT**

Amendment by Pub. L. 106–395 effective as if included in the enactment of section 215 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, div. C of Pub. L. 104–208, and applicable to an alien prosecuted on or after Sept. 30, 1996, except in the case of an alien whose criminal proceeding (including judicial review thereof) has been finally concluded before Oct. 30, 2000, see section 201(d)(3) of Pub. L. 106–395, set out as a note under section 611 of this title.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 42 section 15544.

**§ 1016. Acknowledgment of appearance or oath**

Whoever, being an officer authorized to administer oaths or to take and certify acknowledgments, knowingly makes any false acknowledgment, certificate, or statement concerning the appearance before him or the taking of an oath or affirmation by any person with respect to any proposal, contract, bond, undertaking, or other matter submitted to, made with, or taken on behalf of the United States or any department or agency thereof, concerning which an oath or affirmation is required by law or lawful regulation, or with respect to the financial standing of any principal, surety, or other party to any such proposal, contract, bond, undertaking, or other instrument, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103–322, title XXXIII, §330016(1)(I), Sept. 13, 1994, 108 Stat. 2147.)

**HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., §75 (Mar. 4, 1909, ch. 321, §31, 35 Stat. 1094).

Words “or of any department or agency thereof” were inserted after “United States” so as to remove any ambiguity as to scope of section. (See definitions of “department” and “agency” in section 6 of this title.)

**AMENDMENTS**

1994—Pub. L. 103–322 substituted “fined under this title” for “fined not more than \$2,000”.

**§ 1017. Government seals wrongfully used and instruments wrongfully sealed**

Whoever fraudulently or wrongfully affixes or impresses the seal of any department or agency

of the United States, to or upon any certificate, instrument, commission, document, or paper or with knowledge of its fraudulent character, with wrongful or fraudulent intent, uses, buys, procures, sells, or transfers to another any such certificate, instrument, commission, document, or paper, to which or upon which said seal has been so fraudulently affixed or impressed, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103-322, title XXXIII, § 330016(1)(K), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 130 (June 15, 1917, ch. 30, title X, § 1, 40 Stat. 227).

To clarify scope of section and in view of definition of department or agency in section 6 of this title, words “department or agency” were substituted for “executive department, or of any bureau, commission, or office”.

Slight verbal changes were also made.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000”.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1717 of this title.

### § 1018. Official certificates or writings

Whoever, being a public officer or other person authorized by any law of the United States to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 195 (Mar. 4, 1909, ch. 321, § 106, 35 Stat. 1107).

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

### § 1019. Certificates by consular officers

Whoever, being a consul, or vice consul, or other person employed in the consular service of the United States, knowingly certifies falsely to any invoice, or other paper, to which his certificate is authorized or required by law, shall be fined under this title or imprisoned not more than three years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 127 (Mar. 4, 1909, ch. 321, § 70, 35 Stat. 1101).

Mandatory punishment provision was rephrased in the alternative.

Changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

### § 1020. Highway projects

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report, or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to a material fact in any statement, certificate, or report submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented,

Shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 753; Oct. 31, 1951, ch. 655, § 27, 65 Stat. 721; May 6, 1954, ch. 181, § 18, 68 Stat. 76; Pub. L. 89-670, § 10(f), Oct. 15, 1966, 80 Stat. 948; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 46 of title 23, U.S.C., 1940 ed., Highways (June 19, 1922, ch. 227, § 4, par. 6, 42 Stat. 661).

Words “highway, or related,” were inserted before “project” in two places for the purpose of description, in view of transfer from title 23.

Words “upon conviction thereof” were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Changes in phraseology were made.

#### REFERENCES IN TEXT

The Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), referred to in text, is act July 11, 1916, ch. 241, 39 Stat. 355, as amended, which was repealed by Pub. L. 85-767, § 2(1), Aug. 27, 1958, 72 Stat. 919. See section 101 et seq. of Title 23, Highways.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000” in last par.

1966—Pub. L. 89-670 substituted “Secretary of Transportation” for “Secretary of Commerce” wherever appearing.

1954—Act May 6, 1954, substituted in second par. “with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction” for “for work or materials for the construction”; and in third par. substituted “as to a material fact in any statement, certificate, or report

submitted pursuant to the provisions of the Federal-Aid Road Act approved July 11, 1916 (39 Stat. 355), as amended and supplemented” for “in any report required under Title 23, with intent to defraud the United States”.

1951—Act Oct. 31, 1951, substituted “Secretary of Commerce” for “Secretary of Agriculture” in first and second pars.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by President and published in Federal Register, see section 16(a), formerly §15(a), of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453.

#### TRANSFER OF FUNCTIONS

The Bureau of Public Roads, which is the principal road building agency of the Federal Government, and which was formerly under the Department of Agriculture, was redesignated the Public Roads Administration and, with its functions, transferred to the Federal Works Agency, and the functions of the Secretary of Agriculture, with respect thereto, were transferred to the Federal Works Administrator, by Reorg. Plan No. 1 of 1939, §§301, 302, eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1426, set out in the Appendix to Title 5, Government Organization and Employees. Act June 30, 1949, ch. 288, title I, §103, 63 Stat. 380, (see text of, and Historical and Revision Notes under, section 303(b) of Title 40, Public Buildings, Property, and Works), abolished the Federal Works Agency, transferred its functions, the functions of all agencies thereof, the functions of the Federal Works Administrator, and the functions of the Commissioner of Public Roads, to the Administrator of General Services, and transferred the Public Roads Administration, which it redesignated the Bureau of Public Roads, to the General Services Administration. Reorg. Plan No. 7 of 1949, eff. Aug. 19, 1949, 14 F.R. 5228, 63 Stat. 1070, set out in the Appendix to Title 5, Government Organization and Employees, transferred such bureau and its functions and personnel to the Department of Commerce, and transferred the functions of the Administrator of General Services, with respect thereto, to the Secretary of Commerce, to be performed by him or, subject to his direction and control, by such officers, employees and agencies of the Department of Commerce as he should designate. Reorg. Plan No. 5 of 1950, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees, transferred, with certain exceptions not applicable to this section, all functions of all other officers of the Department of Commerce, and all functions of all agencies and employees of such Department, to the Secretary of Commerce, with power vested in him to authorize their performance, or the performance of any of his functions, by any of such other officers, or by any agency or employee of the Department of Commerce.

#### § 1021. Title records

Whoever, being an officer or other person authorized by any law of the United States to record a conveyance of real property or any other instrument which by such law may be recorded, knowingly certifies falsely that such conveyance or instrument has or has not been recorded, shall be fined under this title or imprisoned not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103-322, title XXXIII, §330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §194 (Mar. 4, 1909, ch. 321, §105, 35 Stat. 1107).

Words “five years” were substituted for “seven years” as more in conformity with comparable sections of this chapter.

Minor change was made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

#### § 1022. Delivery of certificate, voucher, receipt for military or naval property

Whoever, being authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property used or to be used in the military or naval service, makes or delivers the same to any other person without a full knowledge of the truth of the facts stated therein and with intent to defraud the United States, or any agency thereof, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §84 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word “agency” was substituted for “department” so as to eliminate any possible ambiguity as to scope of section. (See definitions of “department” and “agency” in section 6 of this title.)

Words “or any corporation in which the United States of America is a stockholder” were omitted as unnecessary in view of definition of “agency” in section 6 of this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

#### § 1023. Insufficient delivery of money or property for military or naval service

Whoever, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, with intent to defraud the United States, or any agency thereof, or any corporation in which the United States has a proprietary interest, or intending to conceal such money or other property, delivers to any person having authority to receive the same any amount of such money or other property less than that for which he received a certificate or took a receipt, shall be fined under this title or imprisoned not more than ten years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §85 (Mar. 4, 1909, ch. 321, §35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word “agency” was substituted for “department” so as to eliminate any possible ambiguity as to scope of section. (See definitions of “department” and “agency” in section 6 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of “principal” in section 2 of this title.

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

### § 1024. Purchase or receipt of military, naval, or veteran’s facilities property

Whoever purchases, or receives in pledge from any person any arms, equipment, ammunition, clothing, military stores, or other property furnished by the United States under a clothing allowance or otherwise, to any member of the Armed Forces of the United States or of the National Guard or Naval Militia, or to any person accompanying, serving, or retained with the land or naval forces and subject to military or naval law, or to any former member of such Armed Forces at or by any hospital, home, or facility maintained by the United States, having knowledge or reason to believe that the property has been taken from the possession of or furnished by the United States under such allowance, or otherwise, shall be fined under this title or imprisoned not more than two years, or both.

(June 25, 1948, ch. 645, 62 Stat. 754; Pub. L. 103-322, title XXXIII, § 330016(1)(G), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 86 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197; Apr. 30, 1940, ch. 164, 54 Stat. 171).

Minor changes were made in phraseology.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$500”.

### § 1025. False pretenses on high seas and other waters

Whoever, upon any waters or vessel within the special maritime and territorial jurisdiction of the United States, by any fraud, or false pretense, obtains from any person anything of value, or procures the execution and delivery of any instrument of writing or conveyance of real or personal property, or the signature of any person, as maker, endorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, or fraudulently sells, barter, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness, for value, knowing the same to be worthless, or knowing the signature of the maker, endorser, or guarantor thereof to have been obtained by any false pretenses, shall be fined under this title or imprisoned not more than five years, or both; but if the amount, value or the face value of anything so obtained does not exceed \$1,000, he shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; May 24, 1949, ch. 139, § 22, 63 Stat. 92; Pub. L. 103-322, title XXXIII, § 330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 104-294, title VI, § 606(a), Oct. 11, 1996, 110 Stat. 3511.)

#### HISTORICAL AND REVISION NOTES

#### 1948 ACT

Based on title 18, U.S.C., 1940 ed., § 467a (Mar. 4, 1909, ch. 321, § 288A, as added Aug. 5, 1939, ch. 434, 53 Stat. 1205).

Words “upon any waters or vessel within the special maritime and territorial jurisdiction of the United States” were substituted for “upon the high seas or on any waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, or within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State on board any vessel belonging in whole or in part to the United States or any citizen thereof or to any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof”, near beginning of section. The deleted words are not necessary in view of definitive section 7 of this title.

Words “whatsoever with intent to defraud” were omitted as being included in the preceding term “false pretenses”.

The punishment provision was revised to include a misdemeanor punishment (not more than \$1,000 or one year, or both) where the offense involves \$100 or less. (See reviser’s notes under sections 641 and 645 of this title.)

#### 1949 ACT

This section [section 22] corrects a typographical error in section 1025 of title 18, U.S.C.

#### AMENDMENTS

1996—Pub. L. 104-294 substituted “\$1,000” for “\$100”.

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$5,000” after “pretenses, shall be” and for “fined not more than \$1,000” after “he shall be”.

1949—Act May 24, 1949, corrected spelling of “pretense”.

### § 1026. Compromise, adjustment, or cancellation of farm indebtedness

Whoever knowingly makes any false statement for the purpose of influencing in any way the action of the Secretary of Agriculture, or of any person acting under his authority, in connection with any compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined under this title or imprisoned not more than one year, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; Pub. L. 103-322, title XXXIII, § 330016(1)(H), Sept. 13, 1994, 108 Stat. 2147.)

#### HISTORICAL AND REVISION NOTES

Based on section 1150c(a) of title 12, U.S.C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4(a), 58 Stat. 837).

Words “of Agriculture” were inserted after “Secretary” for reasons of identification.

Words “upon conviction thereof” were omitted as surplusage, since punishment can not be imposed until after conviction.

Other changes were made in phraseology without change of substance.

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$1,000”.

**§ 1027. False statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974**

Whoever, in any document required by title I of the Employee Retirement Income Security Act of 1974 (as amended from time to time) to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such title or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such title to be published or any information required by such title to be certified, shall be fined under this title, or imprisoned not more than five years, or both.

(Added Pub. L. 87-420, §17(c), Mar. 20, 1962, 76 Stat. 42; amended Pub. L. 93-406, title I, §111(a)(2)(B)(i), (ii), Sept. 2, 1974, 88 Stat. 851; Pub. L. 103-322, title XXXIII, §330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Title I of the Employee Retirement Income Security Act of 1974 is classified generally to subchapter I (§1001 et seq.) of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

1994—Pub. L. 103-322 substituted “fined under this title” for “fined not more than \$10,000”.

1974—Pub. L. 93-406 substituted “Employee Retirement Income Security Act of 1974” for “Welfare and Pension Plans Disclosure Act” in section catchline, and “title I of the Employee Retirement Income Security Act of 1974” and “title” for “the Welfare and Pension Plans Disclosure Act” and “Act”, respectively, in text.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-406 effective Jan. 1, 1975, except as provided in section 1031(b)(2) of Title 29, Labor, see section 1031(b)(1) of Title 29.

EFFECTIVE DATE

Section effective 90 days after Mar. 20, 1962, see section 19 of Pub. L. 87-420, set out as a note under section 664 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 24 of this title; title 29 sections 1031, 1111.

**§ 1028. Fraud and related activity in connection with identification documents, authentication features, and information**

(a) Whoever, in a circumstance described in subsection (c) of this section—

(1) knowingly and without lawful authority produces an identification document, authentication feature, or a false identification document;

(2) knowingly transfers an identification document, authentication feature, or a false

identification document knowing that such document or feature was stolen or produced without lawful authority;

(3) knowingly possesses with intent to use unlawfully or transfer unlawfully five or more identification documents (other than those issued lawfully for the use of the possessor), authentication features, or false identification documents;

(4) knowingly possesses an identification document (other than one issued lawfully for the use of the possessor), authentication feature, or a false identification document, with the intent such document or feature be used to defraud the United States;

(5) knowingly produces, transfers, or possesses a document-making implement or authentication feature with the intent such document-making implement or authentication feature will be used in the production of a false identification document or another document-making implement or authentication feature which will be so used;

(6) knowingly possesses an identification document or authentication feature that is or appears to be an identification document or authentication feature of the United States which is stolen or produced without lawful authority knowing that such document or feature was stolen or produced without such authority;

(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law; or

(8) knowingly traffics in false authentication features for use in false identification documents, document-making implements, or means of identification;

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

(1) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than 15 years, or both, if the offense is—

(A) the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be—

(i) an identification document or authentication feature issued by or under the authority of the United States; or

(ii) a birth certificate, or a driver's license or personal identification card;

(B) the production or transfer of more than five identification documents, authentication features, or false identification documents;

(C) an offense under paragraph (5) of such subsection; or

(D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value

aggregating \$1,000 or more during any 1-year period;

(2) except as provided in paragraphs (3) and (4), a fine under this title or imprisonment for not more than three years, or both, if the offense is—

(A) any other production, transfer, or use of a means of identification, an identification document,<sup>1</sup> authentication feature, or a false identification document; or

(B) an offense under paragraph (3) or (7) of such subsection;

(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2));

(B) in connection with a crime of violence (as defined in section 924(c)(3)); or

(C) after a prior conviction under this section becomes final;

(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed to facilitate an act of international terrorism (as defined in section 2331(1) of this title);

(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and

(6) a fine under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that—

(1) the identification document, authentication feature, or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document, authentication feature, or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) either—

(A) the production, transfer, possession, or use prohibited by this section is in or affects interstate or foreign commerce, including the transfer of a document by electronic means; or

(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section.

(d) In this section—

(1) the term “authentication feature” means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters, or other feature that either individually or in combination with another feature is used by the issuing authority on an identification document, document-making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified;

(2) the term “document-making implement” means any implement, impression, template, computer file, computer disc, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement;

(3) the term “identification document” means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(4) the term “false identification document” means a document of a type intended or commonly accepted for the purposes of identification of individuals that—

(A) is not issued by or under the authority of a governmental entity or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and

(B) appears to be issued by or under the authority of the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international governmental or quasi-governmental organization;

(5) the term “false authentication feature” means an authentication feature that—

(A) is genuine in origin, but, without the authorization of the issuing authority, has been tampered with or altered for purposes of deceit;

(B) is genuine, but has been distributed, or is intended for distribution, without the authorization of the issuing authority and not in connection with a lawfully made identification document, document-making implement, or means of identification to which such authentication feature is intended to be affixed or embedded by the respective issuing authority; or

(C) appears to be genuine, but is not;

(6) the term “issuing authority”—

(A) means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features; and

(B) includes the United States Government, a State, a political subdivision of a State, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization;

(7) the term “means of identification” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

(A) name, social security number, date of birth, official State or government issued

<sup>1</sup> So in original.



driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

(C) unique electronic identification number, address, or routing code; or

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(8) the term "personal identification card" means an identification document issued by a State or local government solely for the purpose of identification;

(9) the term "produce" includes alter, authenticate, or assemble;

(10) the term "transfer" includes selecting an identification document, false identification document, or document-making implement and placing or directing the placement of such identification document, false identification document, or document-making implement on an online location where it is available to others;

(11) the term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States; and

(12) the term "traffic" means—

(A) to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value; or

(B) to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(f) **ATTEMPT AND CONSPIRACY.**—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(g) **FORFEITURE PROCEDURES.**—The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(h) **FORFEITURE; DISPOSITION.**—In the circumstance in which any person is convicted of a violation of subsection (a), the court shall order, in addition to the penalty prescribed, the forfeiture and destruction or other disposition of all illicit authentication features, identification documents, document-making implements, or means of identification.

(i) **RULE OF CONSTRUCTION.**—For purpose of subsection (a)(7), a single identification document or false identification document that con-

tains 1 or more means of identification shall be construed to be 1 means of identification.

(Added Pub. L. 97-398, § 2, Dec. 31, 1982, 96 Stat. 2009; amended Pub. L. 99-646, § 44(a), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 100-690, title VII, § 7023, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101-647, title XII, § 1205(e), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103-322, title XXXIII, § 330016(1)(K), (M), (O), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104-208, div. C, title II, § 211(a)(1), Sept. 30, 1996, 110 Stat. 3009-569; Pub. L. 104-294, title VI, § 601(a)(3), (p), Oct. 11, 1996, 110 Stat. 3498, 3502; Pub. L. 105-318, § 3(a)-(h)(1), Oct. 30, 1998, 112 Stat. 3007-3009; Pub. L. 106-578, § 3, Dec. 28, 2000, 114 Stat. 3076; Pub. L. 108-21, title VI, § 607(b), Apr. 30, 2003, 117 Stat. 689.)

#### AMENDMENTS

2003—Pub. L. 108-21, § 607(b)(6), inserted “, authentication features,” after “documents” in section catchline.

Subsec. (a)(1). Pub. L. 108-21, § 607(b)(1)(A), inserted “, authentication feature,” after “an identification document”.

Subsec. (a)(2). Pub. L. 108-21, § 607(b)(1)(B), inserted “, authentication feature,” after “an identification document” and “or feature” after “such document”.

Subsec. (a)(3). Pub. L. 108-21, § 607(b)(1)(C), inserted “, authentication features,” after “possessor”.

Subsec. (a)(4). Pub. L. 108-21, § 607(b)(1)(D), inserted “, authentication feature,” after “possessor” and “or feature” after “such document”.

Subsec. (a)(5). Pub. L. 108-21, § 607(b)(1)(E), inserted “or authentication feature” after “implement” whenever appearing.

Subsec. (a)(6). Pub. L. 108-21, § 607(b)(1)(F), inserted “or authentication feature” before “that is or appears”, “or authentication feature” before “of the United States” and “or feature” after “such document” and struck out “or” at end.

Subsec. (a)(7). Pub. L. 108-21, § 607(b)(1)(G), inserted “or” after semicolon at end.

Subsec. (a)(8). Pub. L. 108-21, § 607(b)(1)(H), added par. (8).

Subsec. (b)(1)(A). Pub. L. 108-21, § 607(b)(2)(A)(i)(I), inserted “, authentication feature,” before “or false” in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 108-21, § 607(b)(2)(A)(i)(II), inserted “or authentication feature” after “document”.

Subsec. (b)(1)(B). Pub. L. 108-21, § 607(b)(2)(A)(ii), inserted “, authentication features,” before “or false”.

Subsec. (b)(2)(A). Pub. L. 108-21, § 607(b)(2)(B), inserted “, authentication feature,” before “or a false”.

Subsec. (c)(1). Pub. L. 108-21, § 607(b)(3), inserted “, authentication feature,” before “or false” in two places.

Subsec. (d). Pub. L. 108-21, § 607(b)(4), added pars. (1), (5), (6) and (12), redesignated former pars. (1), (2), (3), (4), (5), (6), (7), and (8) as pars. (2), (3), (4), (7), (8), (9), (10), and (11), respectively, and in par. (4)(A) inserted “or was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit” after “entity”.

Subsecs. (h), (i). Pub. L. 108-21, § 607(b)(5), added subsec. (h) and redesignated former subsec. (h) as (i).

2000—Subsec. (c)(3)(A). Pub. L. 106-578, § 3(1), inserted “, including the transfer of a document by electronic means” after “commerce”.

Subsec. (d)(1). Pub. L. 106-578, § 3(2)(A), inserted “template, computer file, computer disc,” after “impression”.

Subsec. (d)(3) to (8). Pub. L. 106-578, § 3(2)(B)-(F), added pars. (3) and (7) and redesignated former pars. (3), (4), (5), and (6) as (4), (5), (6), and (8), respectively.

1998—Pub. L. 105-318, § 3(h)(1), inserted “and information” at end of section catchline.

Subsec. (a). Pub. L. 105-318, § 3(a)(3), struck out “or attempts to do so,” before “shall be punished” in concluding provisions.

Subsec. (a)(7). Pub. L. 105-318, §3(a)(1), (2), (4), added par. (7).

Subsec. (b)(1)(D). Pub. L. 105-318, §3(b)(1), added subpar. (D).

Subsec. (b)(2)(A). Pub. L. 105-318, §3(b)(2)(A), substituted “, transfer, or use of a means of identification, an identification document, or a” for “or transfer of an identification document or”.

Subsec. (b)(2)(B). Pub. L. 105-318, §3(b)(2)(B), inserted “or (7)” after “(3)”.

Subsec. (b)(3). Pub. L. 105-318, §3(b)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed to facilitate a drug trafficking crime (as defined in section 929(a)(2) of this title);”.

Subsec. (b)(5), (6). Pub. L. 105-318, §3(b)(4)–(6), added par. (5) and redesignated former par. (5) as (6).

Subsec. (c)(3). Pub. L. 105-318, §3(c), added par. (3) and struck out former par. (3) which read as follows: “the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.”

Subsec. (d). Pub. L. 105-318, §3(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) consisted of pars. (1) to (5) defining “identification document”, “produce”, “document-making implement”, “personal identification card”, and “State” as used in this section.

Subsec. (f). Pub. L. 105-318, §3(e), added subsec. (f).

Subsec. (g). Pub. L. 105-318, §3(f), added subsec. (g).

Subsec. (h). Pub. L. 105-318, §3(g), added subsec. (h).

1996—Subsec. (a)(4), (5). Pub. L. 104-294, §601(p), struck out “or” after semicolon in par. (4) and inserted “or” after semicolon in par. (5).

Subsec. (b). Pub. L. 104-294, §601(a)(3), substituted “fine under this title” for “fine of under this title” wherever appearing.

Subsec. (b)(1). Pub. L. 104-208, §211(a)(1)(A), in introductory provisions inserted “except as provided in paragraphs (3) and (4),” after “(1)” and substituted “15 years” for “five years”.

Subsec. (b)(2). Pub. L. 104-208, §211(a)(1)(B), inserted “except as provided in paragraphs (3) and (4),” after “(2)” in introductory provisions and struck out “and” at end.

Subsec. (b)(3) to (5). Pub. L. 104-208, §211(a)(1)(C), (D), added pars. (3) and (4) and redesignated former par. (3) as (5).

1994—Subsec. (b)(1). Pub. L. 103-322, §330016(1)(O), substituted “under this title” for “not more than \$25,000”.

Subsec. (b)(2). Pub. L. 103-322, §330016(1)(M), substituted “under this title” for “not more than \$15,000”.

Subsec. (b)(3). Pub. L. 103-322, §330016(1)(K), substituted “under this title” for “not more than \$5,000”.

1990—Subsec. (d)(5). Pub. L. 101-647 inserted “commonwealth,” before “possession or territory of the United States”.

1988—Subsec. (a)(6). Pub. L. 100-690 inserted “knowingly” before “possesses”, “lawful” before first reference to “authority”, and “such” before second reference to “authority”.

1986—Subsec. (e). Pub. L. 99-646 substituted “chapter 224 of this title” for “title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)”.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-578, §5, Dec. 28, 2000, 114 Stat. 3077, provided that: “This Act [amending this section, repealing section 1738 of this title, and enacting provisions set out as a note below] and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act [Dec. 28, 2000].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 211(c) of div. C of Pub. L. 104-208 provided that: “This section [amending this section and sections

1425 to 1427, 1541 to 1544, and 1546 of this title and enacting provisions set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure] and the amendments made by this section shall apply with respect to offenses occurring on or after the date of the enactment of this Act [Sept. 30, 1996].”

#### COORDINATING COMMITTEE ON FALSE IDENTIFICATION

Pub. L. 106-578, §2, Dec. 28, 2000, 114 Stat. 3075, provided that:

“(a) IN GENERAL.—The Attorney General and the Secretary of the Treasury shall establish a coordinating committee to ensure, through existing interagency task forces or other means, that the creation and distribution of false identification documents (as defined in section 1028(d)(3) [now 1028(d)(4)] of title 18, United States Code, as added by section 3(2) of this Act) is vigorously investigated and prosecuted.

“(b) MEMBERSHIP.—The coordinating committee shall consist of the Director of the United States Secret Service, the Director of the Federal Bureau of Investigation, the Attorney General, the Commissioner of Social Security, and the Commissioner of Immigration and Naturalization, or their respective designees.

“(c) TERM.—The coordinating committee shall terminate 2 years after the effective date of this Act [see Effective Date of 2000 Amendment note above].

“(d) REPORT.—

“(1) IN GENERAL.—The Attorney General and the Secretary of the Treasury, at the end of each year of the existence of the committee, shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the activities of the committee.

“(2) CONTENTS.—The report referred to in paragraph (1) shall include—

“(A) the total number of indictments and informations, guilty pleas, convictions, and acquittals resulting from the investigation and prosecution of the creation and distribution of false identification documents during the preceding year;

“(B) identification of the Federal judicial districts in which the indictments and informations were filed, and in which the subsequent guilty pleas, convictions, and acquittals occurred;

“(C) specification of the Federal statutes utilized for prosecution;

“(D) a brief factual description of significant investigations and prosecutions;

“(E) specification of the sentence imposed as a result of each guilty plea and conviction; and

“(F) recommendations, if any, for legislative changes that could facilitate more effective investigation and prosecution of the creation and distribution of false identification documents.”

[For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

[For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.]

#### CONSTITUTIONAL AUTHORITY

Pub. L. 105-318, §2, Oct. 30, 1998, 112 Stat. 3007, provided that: “The constitutional authority upon which this Act [see Short Title of 1998 Amendments note set out under section 1001 of this title] rests is the power of Congress to regulate commerce with foreign nations and among the several States, and the authority to make all laws which shall be necessary and proper for carrying into execution the powers vested by the Constitution in the Government of the United States or in

any department or officer thereof, as set forth in article I, section 8 of the United States Constitution.”

CENTRALIZED COMPLAINT AND CONSUMER EDUCATION  
SERVICE FOR VICTIMS OF IDENTITY THEFT

Pub. L. 105-318, § 5, Oct. 30, 1998, 112 Stat. 3010, provided that:

“(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Oct. 30, 1998], the Federal Trade Commission shall establish procedures to—

“(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

“(2) provide informational materials to individuals described in paragraph (1); and

“(3) refer complaints described in paragraph (1) to appropriate entities, which may include referral to—

“(A) the 3 major national consumer reporting agencies; and

“(B) appropriate law enforcement agencies for potential law enforcement action.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”

FRAUD AND RELATED ACTIVITY IN CONNECTION WITH  
IDENTIFICATION DOCUMENTS

Pub. L. 98-473, title II, § 609L, Oct. 12, 1984, 98 Stat. 2103, provided that:

“(a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to—

“(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

“(2) facilitate positive identification of bona fide holders of identification documents.

“(b) The President shall, no later than 3 years after the date of enactment of this Act [Oct. 12, 1984], and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommendations [recommendations] to the Congress for the enactment of comprehensive legislation on Federal identification systems. Such legislation shall—

“(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

“(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

“(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 922, 981, 982, 2257, 2326, 2516 of this title; title 8 section 1324a; title 31 section 9703; title 42 section 5119a.

**§ 1029. Fraud and related activity in connection  
with access devices**

(a) Whoever—

(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized

access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;

(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;

(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

(5) knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than \$1,000;

(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

(A) offering an access device; or

(B) selling information regarding or an application to obtain an access device;

(7) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services;

(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;

(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software, knowing it has been configured to insert or modify telecommunication identifying information associated with or contained in a telecommunications instrument so that such instrument may be used to obtain telecommunications service without authorization; or

(10) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be subject to the same penalties as those prescribed for the offense attempted.

(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

(c) PENALTIES.—

(1) GENERALLY.—The punishment for an offense under subsection (a) of this section is—

(A) in the case of an offense that does not occur after a conviction for another offense under this section—

(i) if the offense is under paragraph (1), (2), (3), (6), (7), or (10) of subsection (a), a fine under this title or imprisonment for not more than 10 years, or both; and

(ii) if the offense is under paragraph (4), (5), (8), or (9) of subsection (a), a fine under this title or imprisonment for not more than 15 years, or both;

(B) in the case of an offense that occurs after a conviction for another offense under this section, a fine under this title or imprisonment for not more than 20 years, or both; and

(C) in either case, forfeiture to the United States of any personal property used or intended to be used to commit the offense.

(2) **FORFEITURE PROCEDURE.**—The forfeiture of property under this section, including any seizure and disposition of the property and any related administrative and judicial proceeding, shall be governed by section 413 of the Controlled Substances Act, except for subsection (d) of that section.

(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term “access device” means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) the term “counterfeit access device” means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(3) the term “unauthorized access device” means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

(4) the term “produce” includes design, alter, authenticate, duplicate, or assemble;

(5) the term “traffic” means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of;

(6) the term “device-making equipment” means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device;

(7) the term “credit card system member” means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system;

(8) the term “scanning receiver” means a device or apparatus that can be used to intercept

a wire or electronic communication in violation of chapter 119 or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument;

(9) the term “telecommunications service” has the meaning given such term in section 3 of title I of the Communications Act of 1934 (47 U.S.C. 153);

(10) the term “facilities-based carrier” means an entity that owns communications transmission facilities, is responsible for the operation and maintenance of those facilities, and holds an operating license issued by the Federal Communications Commission under the authority of title III of the Communications Act of 1934; and

(11) the term “telecommunication identifying information” means electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title. For purposes of this subsection, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(g)(1) It is not a violation of subsection (a)(9) for an officer, employee, or agent of, or a person engaged in business with, a facilities-based carrier, to engage in conduct (other than trafficking) otherwise prohibited by that subsection for the purpose of protecting the property or legal rights of that carrier, unless such conduct is for the purpose of obtaining telecommunications service provided by another facilities-based carrier without the authorization of such carrier.

(2) In a prosecution for a violation of subsection (a)(9), (other than a violation consisting of producing or trafficking) it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) that the conduct charged was engaged in for research or development in connection with a lawful purpose.

(h) Any person who, outside the jurisdiction of the United States, engages in any act that, if committed within the jurisdiction of the United States, would constitute an offense under subsection (a) or (b) of this section, shall be subject to the fines, penalties, imprisonment, and forfeiture provided in this title if—

(1) the offense involves an access device issued, owned, managed, or controlled by a financial institution, account issuer, credit card system member, or other entity within the jurisdiction of the United States; and

(2) the person transports, delivers, conveys, transfers to or through, or otherwise stores, secrets, or holds within the jurisdiction of the United States, any article used to assist in the commission of the offense or the proceeds of such offense or property derived therefrom.

(Added Pub. L. 98-473, title II, §1602(a), Oct. 12, 1984, 98 Stat. 2183; amended Pub. L. 99-646, §44(b), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101-647, title XII, §1205(f), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103-322, title XXV, §250007, title XXXIII, §330016(2)(I), Sept. 13, 1994, 108 Stat. 2087, 2148; Pub. L. 103-414, title II, §206, Oct. 25, 1994, 108 Stat. 4291; Pub. L. 104-294, title VI, §601(l), Oct. 11, 1996, 110 Stat. 3501; Pub. L. 105-172, §2(a)-(d), Apr. 24, 1998, 112 Stat. 53, 54; Pub. L. 107-56, title III, §377, Oct. 26, 2001, 115 Stat. 342; Pub. L. 107-273, div. B, title IV, §4002(b)(11), Nov. 2, 2002, 116 Stat. 1808.)

## REFERENCES IN TEXT

Section 413 of the Controlled Substances Act, referred to in subsec. (c)(2), is classified to section 853 of Title 21, Food and Drugs.

The Communications Act of 1934, referred to in subsec. (e)(10), is act June 19, 1934, ch. 652, 48 Stat. 1964, as amended. Title III of the Act is classified generally to subchapter III (§301 et seq.) of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs. For complete classification of this Act to the Code, see section 609 of Title 47 and Tables.

## AMENDMENTS

2002—Subsec. (c)(1)(A)(ii). Pub. L. 107-273, §4002(b)(11)(A), substituted “(9)” for “(9).”

Subsec. (e)(8). Pub. L. 107-273, §4002(b)(11)(B), inserted semicolon at end.

2001—Subsec. (h). Pub. L. 107-56 added subsec. (h).

1998—Subsec. (a)(8) to (10). Pub. L. 105-172, §2(a), added pars. (8) and (9), redesignated former par. (9) as (10), and struck out former par. (8) which read as follows: “knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

“(A) a scanning receiver; or

“(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services, or”.

Subsec. (b)(1). Pub. L. 105-172, §2(b)(2), substituted “subject to the same penalties as those prescribed for the offense attempted” for “punished as provided in subsection (c) of this section”.

Subsec. (c). Pub. L. 105-172, §2(b)(1), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The punishment for an offense under subsection (a) or (b)(1) of this section is—

“(1) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (3), (5), (6), (7), (8), or (9) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph;

“(2) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1), (4), (5), (6), (7), or (8) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

“(3) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.”

Subsec. (e)(8). Pub. L. 105-172, §2(c), inserted “or to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument” before the period at end.

Subsec. (e)(9) to (11). Pub. L. 105-172, §2(d)(2), added pars. (9) to (11).

Subsec. (g). Pub. L. 105-172, §2(d)(1), added subsec. (g). 1996—Subsec. (a)(5). Pub. L. 104-294, §601(l)(1)(A), redesignated par. (5), relating to instruments that have been modified or altered to obtain unauthorized access to telecommunications services, as (7).

Subsec. (a)(6). Pub. L. 104-294, §601(l)(1)(C), in par. (6) relating to solicitations, struck out “or” at end.

Pub. L. 104-294, §601(l)(1)(A), redesignated par. (6), relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services, as (8).

Subsec. (a)(7). Pub. L. 104-294, §601(l)(1)(A), (C), redesignated par. (5), relating to instruments that have been modified or altered to obtain unauthorized access to telecommunications services, as (7), and struck out “or” at end. Par. transferred to appear in numerical order to reflect probable intent of Congress. Former par. (7) redesignated (9).

Pub. L. 104-294, §601(l)(1)(B), redesignated par. (7) as (9).

Subsec. (a)(8). Pub. L. 104-294, §601(l)(1)(A), (D), redesignated par. (6), relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services, as (8) and inserted “or” at end. Par. transferred to appear in numerical order to reflect probable intent of Congress.

Subsec. (a)(9). Pub. L. 104-294, §601(l)(1)(B), redesignated par. (7) as (9).

Subsec. (c)(1). Pub. L. 104-294, §601(l)(3)(A), substituted “(7), (8), or (9)” for “or (7)”.

Subsec. (c)(2). Pub. L. 104-294, §601(l)(3)(B), substituted “(6), (7), or (8)” for “or (6)”.

Subsec. (e)(7), (8). Pub. L. 104-294, §601(l)(2), redesignated par. (7), defining “scanning receiver”, as (8).

1994—Subsec. (a)(3). Pub. L. 103-322, §250007(1)(A), and Pub. L. 103-414, §206(a)(1), amended par. (3) identically, striking “or” at end.

Subsec. (a)(5). Pub. L. 103-414, §206(a)(2), added par. (5) relating to instruments that have been modified or altered to obtain unauthorized use of telecommunications services.

Pub. L. 103-322, §250007(1)(B), added par. (5) relating to transactions involving use of access devices issued to persons other than user.

Subsec. (a)(6). Pub. L. 103-414, §206(a)(2), added par. (6) relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services.

Pub. L. 103-322, §250007(1)(B), added par. (6) relating to solicitations which offer access devices or information regarding access devices.

Subsec. (a)(7). Pub. L. 103-322, §250007(1)(B), added par. (7).

Subsec. (c)(1). Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$10,000 or twice the value obtained by the offense or imprisonment”.

Pub. L. 103-322, §250007(2), substituted “(a)(2), (3), (5), (6), or (7)” for “(a)(2) or (a)(3)”.

Subsec. (c)(2). Pub. L. 103-414, §206(b), substituted “(a)(1), (4), (5), or (6)” for “(a)(1) or (a)(4)”.

Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$50,000 or twice the value obtained by the offense or imprisonment”.

Subsec. (c)(3). Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$100,000 or twice the value obtained by the offense or imprisonment”.

Subsec. (e)(1). Pub. L. 103-414, §206(c)(1), inserted “electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier,” after “account number,”.

Subsec. (e)(5), (6). Pub. L. 103-322, §250007(3)(A), (B), and Pub. L. 103-414, §206(c)(2), (3), amended subsec. (e) identically, striking “and” at end of par. (5) and substituting “; and” for period at end of par. (6).

Subsec. (e)(7). Pub. L. 103-414, §206(c)(4), added par. (7) defining “scanning receiver”.

Pub. L. 103-322, §250007(3)(C), added par. (7) defining “credit card system member”.

1990—Subsec. (f). Pub. L. 101-647 inserted at end “For purposes of this subsection, the term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”

1986—Subsec. (f). Pub. L. 99-646 which directed that subsec. (f) be amended by substituting “chapter 224 of this title” for “title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)” was executed by making the substitution for “title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)” to reflect the probable intent of Congress.

#### TERMINATION DATE OF 2001 AMENDMENT

Amendments by title III of Pub. L. 107-56 to terminate effective on and after the first day of fiscal year 2005 if Congress enacts a joint resolution that such amendments no longer have the force of law, see section 303 of Pub. L. 107-56, set out as a Four-Year Congressional Review; Expedited Consideration note under section 5311 of Title 31, Money and Finance.

#### TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### REPORT TO CONGRESS

Section 1603 of Pub. L. 98-473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 1028, 1030, 1961, 2326, 2516 of this title; title 31 section 9703.

### § 1030. Fraud and related activity in connection with computers

(a) Whoever—

(1) having knowingly accessed a computer without authorization or exceeding authorized access, and by means of such conduct having obtained information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with reason to believe that such information so obtained could be used to the injury of the United States, or to the advantage of any foreign nation willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it;

(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains—

(A) information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(B) information from any department or agency of the United States; or

(C) information from any protected computer if the conduct involved an interstate or foreign communication;

(3) intentionally, without authorization to access any nonpublic computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct affects that use by or for the Government of the United States;

(4) knowingly and with intent to defraud, accesses a protected computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer and the value of such use is not more than \$5,000 in any 1-year period;

(5)(A)(i) knowingly causes the transmission of a program, information, code, or command, and as a result of such conduct, intentionally causes damage without authorization, to a protected computer;

(ii) intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage; or

(iii) intentionally accesses a protected computer without authorization, and as a result of such conduct, causes damage; and

(B) by conduct described in clause (i), (ii), or (iii) of subparagraph (A), caused (or, in the case of an attempted offense, would, if completed, have caused)—

(i) loss to 1 or more persons during any 1-year period (and, for purposes of an investigation, prosecution, or other proceeding brought by the United States only, loss resulting from a related course of conduct affecting 1 or more other protected computers) aggregating at least \$5,000 in value;

(ii) the modification or impairment, or potential modification or impairment, of the medical examination, diagnosis, treatment, or care of 1 or more individuals;

(iii) physical injury to any person;

(iv) a threat to public health or safety; or

(v) damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security;

(6) knowingly and with intent to defraud traffics (as defined in section 1029) in any password or similar information through which a computer may be accessed without authorization, if—

(A) such trafficking affects interstate or foreign commerce; or

(B) such computer is used by or for the Government of the United States;<sup>1</sup>

(7) with intent to extort from any person any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to cause damage to a protected computer;

shall be punished as provided in subsection (c) of this section.

(b) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(c) The punishment for an offense under subsection (a) or (b) of this section is—

(1)(A) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(1) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a)(1) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(2)(A) except as provided in subparagraph (B), a fine under this title or imprisonment for not more than one year, or both, in the case of an offense under subsection (a)(2), (a)(3), (a)(5)(A)(iii), or (a)(6) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(2), or an attempt to commit an offense punishable under this subparagraph, if—

(i) the offense was committed for purposes of commercial advantage or private financial gain;

(ii) the offense was committed in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or of any State; or

(iii) the value of the information obtained exceeds \$5,000; and

(C) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(2), (a)(3) or (a)(6) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(3)(A) a fine under this title or imprisonment for not more than five years, or both, in the case of an offense under subsection (a)(4) or (a)(7) of this section which does not occur after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph; and

(B) a fine under this title or imprisonment for not more than ten years, or both, in the case of an offense under subsection (a)(4), (a)(5)(A)(iii), or (a)(7) of this section which occurs after a conviction for another offense under this section, or an attempt to commit an offense punishable under this subparagraph;

(4)(A) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 10 years, or both, in the case of an offense under subsection (a)(5)(A)(i), or an attempt to commit an offense punishable under that subsection;

(B) a fine under this title, imprisonment for not more than 5 years, or both, in the case of an offense under subsection (a)(5)(A)(ii), or an attempt to commit an offense punishable under that subsection;

(C) except as provided in paragraph (5), a fine under this title, imprisonment for not more than 20 years, or both, in the case of an offense under subsection (a)(5)(A)(i) or (a)(5)(A)(ii), or an attempt to commit an offense punishable under either subsection, that occurs after a conviction for another offense under this section; and

(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.

(d)(1) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section.

(2) The Federal Bureau of Investigation shall have primary authority to investigate offenses under subsection (a)(1) for any cases involving espionage, foreign counterintelligence, information protected against unauthorized disclosure for reasons of national defense or foreign relations, or Restricted Data (as that term is defined in section 11y of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)), except for offenses affecting the duties of the United States Secret Service pursuant to section 3056(a) of this title.

(3) Such authority shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term “computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device;

(2) the term “protected computer” means a computer—

(A) exclusively for the use of a financial institution or the United States Government, or, in the case of a computer not ex-

<sup>1</sup> So in original. Probably should be followed by “or”.

clusively for such use, used by or for a financial institution or the United States Government and the conduct constituting the offense affects that use by or for the financial institution or the Government; or

(B) which is used in interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States;

(3) the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States;

(4) the term “financial institution” means—

(A) an institution, with deposits insured by the Federal Deposit Insurance Corporation;

(B) the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank;

(C) a credit union with accounts insured by the National Credit Union Administration;

(D) a member of the Federal home loan bank system and any home loan bank;

(E) any institution of the Farm Credit System under the Farm Credit Act of 1971;

(F) a broker-dealer registered with the Securities and Exchange Commission pursuant to section 15 of the Securities Exchange Act of 1934;

(G) the Securities Investor Protection Corporation;

(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

(I) an organization operating under section 25 or section 25(a)<sup>2</sup> of the Federal Reserve Act;

(5) the term “financial record” means information derived from any record held by a financial institution pertaining to a customer’s relationship with the financial institution;

(6) the term “exceeds authorized access” means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter;

(7) the term “department of the United States” means the legislative or judicial branch of the Government or one of the executive departments enumerated in section 101 of title 5;

(8) the term “damage” means any impairment to the integrity or availability of data, a program, a system, or information;

(9) the term “government entity” includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country;

(10) the term “conviction” shall include a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthor-

ized access, or exceeding authorized access, to a computer;

(11) the term “loss” means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service; and

(12) the term “person” means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.

(g) Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage. No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.

(h) The Attorney General and the Secretary of the Treasury shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning investigations and prosecutions under subsection (a)(5).

(Added Pub. L. 98-473, title II, §2102(a), Oct. 12, 1984, 98 Stat. 2190; amended Pub. L. 99-474, §2, Oct. 16, 1986, 100 Stat. 1213; Pub. L. 100-690, title VII, §7065, Nov. 18, 1988, 102 Stat. 4404; Pub. L. 101-73, title IX, §962(a)(5), Aug. 9, 1989, 103 Stat. 502; Pub. L. 101-647, title XII, §1205(e), title XXV, §2597(j), title XXXV, §3533, Nov. 29, 1990, 104 Stat. 4831, 4910, 4925; Pub. L. 103-322, title XXIX, §290001(b)-(f), Sept. 13, 1994, 108 Stat. 2097-2099; Pub. L. 104-294, title II, §201, title VI, §604(b)(36), Oct. 11, 1996, 110 Stat. 3491, 3508; Pub. L. 107-56, title V, §506(a), title VIII, §814(a)-(e), Oct. 26, 2001, 115 Stat. 366, 382-384; Pub. L. 107-273, div. B, title IV, §§4002(b)(1), (12), 4005(a)(3), (d)(3), Nov. 2, 2002, 116 Stat. 1807, 1808, 1812, 1813; Pub. L. 107-296, title II, §225(g), Nov. 25, 2002, 116 Stat. 2158.)

#### REFERENCES IN TEXT

Section 11 of the Atomic Energy Act of 1954, referred to in subsec. (a)(1), is classified to section 2014 of Title 42, The Public Health and Welfare.

The Fair Credit Reporting Act, referred to in subsec. (a)(2)(A), is title VI of Pub. L. 90-321, as added by Pub. L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§1681 et seq.) of chapter 41 of Title 15, Commerce and

<sup>2</sup> See References in Text note below.



Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Farm Credit Act of 1971, referred to in subsec. (e)(4)(E), is Pub. L. 92-181, Dec. 10, 1971, 85 Stat. 583, as amended, which is classified generally to chapter 23 (§2001 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 2001 of Title 12 and Tables.

Section 15 of the Securities Exchange Act of 1934, referred to in subsec. (e)(4)(F), is classified to section 78o of Title 15, Commerce and Trade.

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (e)(4)(H), is classified to section 3101 of Title 12, Banks and Banking.

Section 25 of the Federal Reserve Act, referred to in subsec. (e)(4)(I), is classified to subchapter I (§601 et seq.) of chapter 6 of Title 12. Section 25(a) of the Federal Reserve Act, which is classified to subchapter II (§611 et seq.) of chapter 6 of Title 12, was renumbered section 25A of that act by Pub. L. 102-242, title I, §142(e)(2), Dec. 19, 1991, 105 Stat. 2281.

The date of the enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 103-322, which was approved Sept. 13, 1994.

#### AMENDMENTS

2002—Subsec. (a)(5)(B). Pub. L. 107-273, §4005(a)(3), realigned margins.

Subsec. (c)(2)(B). Pub. L. 107-273, §4002(b)(1), realigned margins.

Subsec. (c)(2)(B)(iii). Pub. L. 107-273, §4002(b)(12)(A), inserted “and” at end.

Subsec. (c)(3)(B). Pub. L. 107-273, §4005(d)(3), inserted comma after “(a)(4)”.

Subsec. (c)(4)(A), (C). Pub. L. 107-296, §225(g)(2), inserted “except as provided in paragraph (5),” before “a fine under this title”.

Subsec. (c)(5). Pub. L. 107-296, §225(g)(1), (3), (4), added par. (5).

Subsec. (e)(4)(I). Pub. L. 107-273, §4002(b)(12)(B), substituted semicolon for period at end.

2001—Subsec. (a)(5)(A). Pub. L. 107-56, §814(a)(1)-(3), designated existing provisions as cl. (i), redesignated subpars. (B) and (C) as cls. (ii) and (iii), respectively, of subpar. (A), and inserted “and” at end of cl. (iii).

Subsec. (a)(5)(B). Pub. L. 107-56, §814(a)(4), added subpar. (B). Former subpar. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (a)(5)(C). Pub. L. 107-56, §814(a)(2), redesignated subpar. (C) as cl. (iii) of subpar. (A).

Subsec. (a)(7). Pub. L. 107-56, §814(b), struck out “, firm, association, educational institution, financial institution, government entity, or other legal entity,” before “any money or other thing of value”.

Subsec. (c)(2)(A). Pub. L. 107-56, §814(c)(1)(A), inserted “except as provided in subparagraph (B),” before “a fine”, substituted “(a)(5)(A)(iii)” for “(a)(5)(C)”, and struck out “and” at end.

Subsec. (c)(2)(B). Pub. L. 107-56, §814(c)(1)(B), inserted “or an attempt to commit an offense punishable under this subparagraph,” after “subsection (a)(2),” in introductory provisions.

Subsec. (c)(2)(C). Pub. L. 107-56, §814(c)(1)(C), struck out “and” at end.

Subsec. (c)(3). Pub. L. 107-56, §814(c)(2), struck out “, (a)(5)(A), (a)(5)(B),” after “subsection (a)(4)” in subpars. (A) and (B) and substituted “(a)(5)(A)(iii)” for “(a)(5)(C)” in subpar. (B).

Subsec. (c)(4). Pub. L. 107-56, §814(c)(3), added par. (4).

Subsec. (d). Pub. L. 107-56, §506(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.”

Subsec. (e)(2)(B). Pub. L. 107-56, §814(d)(1), inserted “, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States” before semicolon.

Subsec. (e)(7). Pub. L. 107-56, §814(d)(2), struck out “and” at end.

Subsec. (e)(8). Pub. L. 107-56, §814(d)(3), added par. (8) and struck out former par. (8) which read as follows: “the term ‘damage’ means any impairment to the integrity or availability of data, a program, a system, or information, that—

“(A) causes loss aggregating at least \$5,000 in value during any 1-year period to one or more individuals;

“(B) modifies or impairs, or potentially modifies or impairs, the medical examination, diagnosis, treatment, or care of one or more individuals;

“(C) causes physical injury to any person; or

“(D) threatens public health or safety; and”.

Subsec. (e)(10) to (12). Pub. L. 107-56, §814(d)(4), (5), added pars. (10) to (12).

Subsec. (g). Pub. L. 107-56, §814(e), substituted “A civil action for a violation of this section may be brought only if the conduct involves 1 of the factors set forth in clause (i), (ii), (iii), (iv), or (v) of subsection (a)(5)(B). Damages for a violation involving only conduct described in subsection (a)(5)(B)(i) are limited to economic damages.” for “Damages for violations involving damage as defined in subsection (e)(8)(A) are limited to economic damages.” and inserted at end “No action may be brought under this subsection for the negligent design or manufacture of computer hardware, computer software, or firmware.”

1996—Subsec. (a)(1). Pub. L. 104-294, §201(1)(A), substituted “having knowingly accessed” for “knowingly accesses”, “exceeding authorized access” for “exceeds authorized access”, “such conduct having obtained information” for “such conduct obtains information”, and “could be used to the injury of the United States” for “is to be used to the injury of the United States”, struck out “the intent or” before “reason to believe”, and inserted before semicolon at end “willfully communicates, delivers, transmits, or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it”.

Subsec. (a)(2). Pub. L. 104-294, §201(1)(B), inserted dash after “thereby obtains”, redesignated remainder of par. (2) as subpar. (A), and added subpars. (B) and (C).

Subsec. (a)(3). Pub. L. 104-294, §201(1)(C), inserted “nonpublic” before “computer of a department or agency”, struck out “adversely” after “and such conduct”, and substituted “that use by or for the Government of the United States” for “the use of the Government’s operation of such computer”.

Subsec. (a)(4). Pub. L. 104-294, §201(1)(D), substituted “protected computer” for “Federal interest computer” and inserted “and the value of such use is not more than \$5,000 in any 1-year period” before semicolon at end.

Subsec. (a)(5). Pub. L. 104-294, §201(1)(E), inserted par. (5) and struck out former par. (5) which related to fraud in connection with computers in causing transmission of program, information, code, or command to a computer or computer system in interstate or foreign commerce which damages such system, program, information, or code, or causes a withholding or denial of use of hardware or software, or transmits viruses which causes damage in excess of \$1,000 or more during any one-year period, or modifies or impairs medical examination, diagnosis, treatment or care of individuals.

Subsec. (a)(5)(B)(ii)(II)(bb). Pub. L. 104-294, §604(b)(36)(A), which directed insertion of “or” at end of subsec., could not be executed because no subsec. (a)(5)(B)(ii)(II)(bb) existed subsequent to amendment by Pub. L. 104-294, §201(1)(E). See above.

Subsec. (a)(7). Pub. L. 104-294, §201(1)(F), added par. (7).

Subsec. (c)(1). Pub. L. 104-294, §201(2)(A), substituted “under this section” for “under such subsection” in subpars. (A) and (B).

Subsec. (c)(1)(B). Pub. L. 104-294, §604(b)(36)(B), struck out “and” after semicolon at end.

Subsec. (c)(2)(A). Pub. L. 104-294, §201(2)(B)(i), inserted “, (a)(5)(C),” after “(a)(3)” and substituted “under this section” for “under such subsection”.

Subsec. (c)(2)(B). Pub. L. 104-294, §201(2)(B)(iii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(2)(C). Pub. L. 104-294, §201(2)(B)(iv), substituted “under this section” for “under such subsection” and inserted “and” at end.

Pub. L. 104-294, §201(2)(B)(ii), redesignated subpar. (B) as (C).

Subsec. (c)(3)(A). Pub. L. 104-294, §201(2)(C)(i), substituted “(a)(4), (a)(5)(A), (a)(5)(B), or (a)(7)” for “(a)(4) or (a)(5)(A)” and “under this section” for “under such subsection”.

Subsec. (c)(3)(B). Pub. L. 104-294, §201(2)(C)(ii), substituted “(a)(4), (a)(5)(A), (a)(5)(B), (a)(5)(C), or (a)(7)” for “(a)(4) or (a)(5)” and “under this section” for “under such subsection”.

Subsec. (c)(4). Pub. L. 104-294, §201(2)(D), struck out par. (4) which read as follows: “a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).”

Subsec. (d). Pub. L. 104-294, §201(3), inserted “subsections (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6) of” before “this section” in first sentence.

Subsec. (e)(2). Pub. L. 104-294, §201(4)(A)(i), substituted “protected” for “Federal interest” in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 104-294, §201(4)(A)(ii), substituted “that use by or for the financial institution or the Government” for “the use of the financial institution’s operation or the Government’s operation of such computer”.

Subsec. (e)(2)(B). Pub. L. 104-294, §201(4)(A)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: “which is one of two or more computers used in committing the offense, not all of which are located in the same State;”.

Subsec. (e)(8), (9). Pub. L. 104-294, §201(4)(B)–(D), added pars. (8) and (9).

Subsec. (g). Pub. L. 104-294, §604(b)(36)(C), substituted “violation of this section” for “violation of the section”.

Pub. L. 104-294, §201(5), struck out “, other than a violation of subsection (a)(5)(B),” before “may maintain a civil action” and substituted “involving damage as defined in subsection (e)(8)(A)” for “of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)”.

Subsec. (h). Pub. L. 104-294, §604(b)(36)(D), substituted “subsection (a)(5)” for “section 1030(a)(5) of title 18, United States Code” before period at end.

1994—Subsec. (a)(3). Pub. L. 103-322, §290001(f), inserted “adversely” before “affects the use of the Government’s”.

Subsec. (a)(5). Pub. L. 103-322, §290001(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

“(A) causes loss to one or more others of a value aggregating \$1,000 or more during any one year period; or

“(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or”.

Subsec. (c)(3)(A). Pub. L. 103-322, §290001(c)(2), inserted “(A)” after “(a)(5)”.

Subsec. (c)(4). Pub. L. 103-322, §290001(c)(1), (3), (4), added par. (4).

Subsec. (g). Pub. L. 103-322, §290001(d), added subsec. (g).

Subsec. (h). Pub. L. 103-322, §290001(e), added subsec. (h).

1990—Subsec. (a)(1). Pub. L. 101-647, §3533, substituted “paragraph y” for “paragraph r”.

Subsec. (e)(3). Pub. L. 101-647, §1205(e), inserted “commonwealth,” before “possession or territory of the United States”.

Subsec. (e)(4)(G). Pub. L. 101-647, §2597(j)(2), which directed substitution of a semicolon for a period at end of subpar. (G), could not be executed because it ended with a semicolon.

Subsec. (e)(4)(H), (I). Pub. L. 101-647, §2597(j), added subpars. (H) and (I).

1989—Subsec. (e)(4)(A). Pub. L. 101-73, §962(a)(5)(A), substituted “an institution,” for “a bank”.

Subsec. (e)(4)(C) to (H). Pub. L. 101-73, §962(a)(5)(B), (C), redesignated subpars. (D) to (H) as (C) to (G), respectively, and struck out former subpar. (C) which read as follows: “an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;”.

1988—Subsec. (a)(2). Pub. L. 100-690 inserted a comma after “financial institution” and struck out the comma that followed a comma after “title 15”.

1986—Subsec. (a). Pub. L. 99-474, §2(b)(2), struck out last sentence which read as follows: “It is not an offense under paragraph (2) or (3) of this subsection in the case of a person having accessed a computer with authorization and using the opportunity such access provides for purposes to which such access does not extend, if the using of such opportunity consists only of the use of the computer.”

Subsec. (a)(1). Pub. L. 99-474, §2(c), substituted “or exceeds authorized access” for “, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend”.

Subsec. (a)(2). Pub. L. 99-474, §2(a), (c), substituted “intentionally” for “knowingly”, substituted “or exceeds authorized access” for “, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend”, struck out “as such terms are defined in the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.),” after “financial institution,” inserted “or of a card issuer as defined in section 1602(n) of title 15,” and struck out “or” appearing at end.

Subsec. (a)(3). Pub. L. 99-474, §2(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;”.

Subsec. (a)(4) to (6). Pub. L. 99-474, §2(d), added pars. (4) to (6).

Subsec. (b). Pub. L. 99-474, §2(e), struck out par. (1) designation and par. (2) which provided a penalty for persons conspiring to commit an offense under subsec. (a).

Subsec. (c). Pub. L. 99-474, §2(f)(9), substituted “(b)” for “(b)(1)” in introductory text.

Subsec. (c)(1)(A). Pub. L. 99-474, §2(f)(1), substituted “under this title” for “of not more than the greater of \$10,000 or twice the value obtained by the offense”.

Subsec. (c)(1)(B). Pub. L. 99-474, §2(f)(2), substituted “under this title” for “of not more than the greater of \$100,000 or twice the value obtained by the offense”.

Subsec. (c)(2)(A). Pub. L. 99-474, §2(f)(3), (4), substituted “under this title” for “of not more than the greater of \$5,000 or twice the value obtained or loss created by the offense” and inserted reference to subsec. (a)(6).

Subsec. (c)(2)(B). Pub. L. 99-474, §2(f)(3), (5)–(7), substituted “under this title” for “of not more than the greater of \$10,000 or twice the value obtained or loss

created by the offense”, “not more than” for “not than”, inserted reference to subsec. (a)(6), and substituted “; and” for the period at end of subpar. (B).

Subsec. (c)(3). Pub. L. 99-474, §2(f)(8), added par. (3).

Subsec. (e). Pub. L. 99-474, §2(g), substituted a dash for the comma after “As used in this section”, realigned remaining portion of subsection, inserted “(1)” before “the term”, substituted a semicolon for the period at the end, and added pars. (2) to (7).

Subsec. (f). Pub. L. 99-474, §2(h), added subsec. (f).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

#### TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### REPORTS TO CONGRESS

Section 2103 of Pub. L. 98-473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 1037, 1956, 2256, 2332b, 2510, 2516, 3125, 3239 of this title; title 6 section 145; title 8 section 1721; title 15 section 7702; title 17 section 1201; title 26 section 7431; title 31 section 9703.

### § 1031. Major fraud against the United States

(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

- (1) to defraud the United States; or
- (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is \$1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.

(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed \$5,000,000 and—

- (1) the gross loss to the Government or the gross gain to a defendant is \$500,000 or greater; or
- (2) the offense involves a conscious or reckless risk of serious personal injury.

(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed \$10,000,000.

(d) Nothing in this section shall preclude a court from imposing any other sentences avail-

able under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including—

- (1) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;
- (2) whether the defendant previously has been fined for a similar offense; and
- (3) any other pertinent equitable considerations.

(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed \$250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

(2) An individual is not eligible for such a payment if—

(A) that individual is an officer or employee of a Government agency who furnishes information or renders service in the performance of official duties;

(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, “original source” means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

(D) that individual participated in the violation of this section with respect to which such payment would be made.

(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review.

(h) Any individual who—

(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including in-

vestigation for, initiation of, testimony for, or assistance in such prosecution), and

(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(Added Pub. L. 100-700, §2(a), Nov. 19, 1988, 102 Stat. 4631; amended Pub. L. 101-123, §2(a), Oct. 23, 1989, 103 Stat. 759; Pub. L. 103-322, title XXXIII, §330002(a), (f), Sept. 13, 1994, 108 Stat. 2140.)

#### AMENDMENTS

1994—Subsec. (g). Pub. L. 103-322, §330002(f), redesignated second subsec. (g) as (h).

Subsec. (g)(2)(A). Pub. L. 103-322, §330002(a), substituted "a Government" for "a government".

Subsec. (h). Pub. L. 103-322, §330002(f), redesignated second subsec. (g) as (h).

1989—Subsec. (g). Pub. L. 101-123 added, after subsec. (f), subsec. (g) relating to payments by the Attorney General.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 2(b) of Pub. L. 101-123 provided that: "The amendment made by this section [amending this section] shall apply to contracts entered into on or after the date of the enactment of this Act [Oct. 23, 1989]."

#### SENTENCING GUIDELINES

Section 2(b) of Pub. L. 100-700 provided that: "Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987 [section 21 of Pub. L. 100-182, set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred. The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud."

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982 of this title.

### § 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

Whoever—

(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13 of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the Na-

tional Credit Union Administration Board, acting as conservator or liquidating agent;

(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator; or

(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be fined under this title or imprisoned not more than 5 years, or both.

(Added Pub. L. 101-647, title XXV, §2501(a), Nov. 29, 1990, 104 Stat. 4859; amended Pub. L. 107-273, div. B, title IV, §4002(b)(13), Nov. 2, 2002, 116 Stat. 1808.)

#### REFERENCES IN TEXT

Sections 11, 12, and 13 of the Federal Deposit Insurance Act, referred to in par. (1), are classified to sections 1821, 1822, and 1823, respectively, of Title 12, Banks and Banking.

#### AMENDMENTS

2002—Par. (1). Pub. L. 107-273 substituted "13" for "13,".

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 225, 981, 982, 1956 of this title; title 12 sections 1785, 1786, 1787, 1821, 1828, 1829, 1833a.

### § 1033. Crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce

(a)(1) Whoever is engaged in the business of insurance whose activities affect interstate commerce and knowingly, with the intent to deceive, makes any false material statement or report or willfully and materially overvalues any land, property or security—

(A) in connection with any financial reports or documents presented to any insurance regulatory official or agency or an agent or examiner appointed by such official or agency to examine the affairs of such person, and

(B) for the purpose of influencing the actions of such official or agency or such an appointed agent or examiner,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as established under this title or imprisonment for not more than 10 years, or both, except that the term of imprisonment shall be not more than 15 years if the statement or report or overvaluing of land, property, or security jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court.

(b)(1) Whoever—

(A) acting as, or being an officer, director, agent, or employee of, any person engaged in the business of insurance whose activities affect interstate commerce, or

(B) is engaged in the business of insurance whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business,

willfully embezzles, abstracts, purloins, or misappropriates any of the moneys, funds, pre-

miums, credits, or other property of such person so engaged shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if such embezzlement, abstraction, purloining, or misappropriation described in paragraph (1) jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years. If the amount or value so embezzled, abstracted, purloined, or misappropriated does not exceed \$5,000, whoever violates paragraph (1) shall be fined as provided in this title or imprisoned not more than one year, or both.

(c)(1) Whoever is engaged in the business of insurance and whose activities affect interstate commerce or is involved (other than as an insured or beneficiary under a policy of insurance) in a transaction relating to the conduct of affairs of such a business, knowingly makes any false entry of material fact in any book, report, or statement of such person engaged in the business of insurance with intent to deceive any person, including any officer, employee, or agent of such person engaged in the business of insurance, any insurance regulatory official or agency, or any agent or examiner appointed by such official or agency to examine the affairs of such person, about the financial condition or solvency of such business shall be punished as provided in paragraph (2).

(2) The punishment for an offense under paragraph (1) is a fine as provided under this title or imprisonment for not more than 10 years, or both, except that if the false entry in any book, report, or statement of such person jeopardized the safety and soundness of an insurer and was a significant cause of such insurer being placed in conservation, rehabilitation, or liquidation by an appropriate court, such imprisonment shall be not more than 15 years.

(d) Whoever, by threats or force or by any threatening letter or communication, corruptly influences, obstructs, or impedes or endeavors corruptly to influence, obstruct, or impede the due and proper administration of the law under which any proceeding involving the business of insurance whose activities affect interstate commerce is pending before any insurance regulatory official or agency or any agent or examiner appointed by such official or agency to examine the affairs of a person engaged in the business of insurance whose activities affect interstate commerce, shall be fined as provided in this title or imprisoned not more than 10 years, or both.

(e)(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect inter-

state commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

(f) As used in this section—

(1) the term “business of insurance” means—

(A) the writing of insurance, or

(B) the reinsuring of risks,

by an insurer, including all acts necessary or incidental to such writing or reinsuring and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons;

(2) the term “insurer” means any entity the business activity of which is the writing of insurance or the reinsuring of risks, and includes any person who acts as, or is, an officer, director, agent, or employee of that business;

(3) the term “interstate commerce” means—

(A) commerce within the District of Columbia, or any territory or possession of the United States;

(B) all commerce between any point in the State, territory, possession, or the District of Columbia and any point outside thereof;

(C) all commerce between points within the same State through any place outside such State; or

(D) all other commerce over which the United States has jurisdiction; and

(4) the term “State” includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(Added Pub. L. 103-322, title XXXII, § 320603(a), Sept. 13, 1994, 108 Stat. 2115.)

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1034, 1510, 3293 of this title.

### § 1034. Civil penalties and injunctions for violations of section 1033

(a) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 1033 and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than \$50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. If the offense has contributed to the decision of a court of appropriate jurisdiction to issue an order directing the conservation, rehabilitation,

or liquidation of an insurer, such penalty shall be remitted to the appropriate regulatory official for the benefit of the policyholders, claimants, and creditors of such insurer. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(b) If the Attorney General has reason to believe that a person is engaged in conduct constituting an offense under section 1033, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

(Added Pub. L. 103-322, title XXXII, §320603(a), Sept. 13, 1994, 108 Stat. 2118.)

**§ 1035. False statements relating to health care matters**

(a) Whoever, in any matter involving a health care benefit program, knowingly and willfully—

- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or
- (2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,

in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section, the term “health care benefit program” has the meaning given such term in section 24(b) of this title.

(Added Pub. L. 104-191, title II, §244(a), Aug. 21, 1996, 110 Stat. 2017.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 24 of this title.

**§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport**

(a) Whoever, by any fraud or false pretense, enters or attempts to enter—

- (1) any real property belonging in whole or in part to, or leased by, the United States;
- (2) any vessel or aircraft belonging in whole or in part to, or leased by, the United States; or
- (3) any secure area of any airport,

shall be punished as provided in subsection (b) of this section.

(b) The punishment for an offense under subsection (a) of this section is—

- (1) a fine under this title or imprisonment for not more than 5 years, or both, if the offense is committed with the intent to commit a felony; or

(2) a fine under this title or imprisonment for not more than 6 months, or both, in any other case.

(c) As used in this section—

(1) the term “secure area” means an area access to which is restricted by the airport authority or a public agency; and

(2) the term “airport” has the meaning given such term in section 47102 of title 49.

(Added Pub. L. 106-547, §2(a), Dec. 19, 2000, 114 Stat. 2738.)

**§ 1037. Fraud and related activity in connection with electronic mail**

(a) IN GENERAL.—Whoever, in or affecting interstate or foreign commerce, knowingly—

(1) accesses a protected computer without authorization, and intentionally initiates the transmission of multiple commercial electronic mail messages from or through such computer,

(2) uses a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages,

(3) materially falsifies header information in multiple commercial electronic mail messages and intentionally initiates the transmission of such messages,

(4) registers, using information that materially falsifies the identity of the actual registrant, for five or more electronic mail accounts or online user accounts or two or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from any combination of such accounts or domain names, or

(5) falsely represents oneself to be the registrant or the legitimate successor in interest to the registrant of 5 or more Internet Protocol addresses, and intentionally initiates the transmission of multiple commercial electronic mail messages from such addresses,

or conspires to do so, shall be punished as provided in subsection (b)

(b) PENALTIES.—The punishment for an offense under subsection (a) is—

(1) a fine under this title, imprisonment for not more than 5 years, or both, if—

(A) the offense is committed in furtherance of any felony under the laws of the United States or of any State; or

(B) the defendant has previously been convicted under this section or section 1030, or under the law of any State for conduct involving the transmission of multiple commercial electronic mail messages or unauthorized access to a computer system;

(2) a fine under this title, imprisonment for not more than 3 years, or both, if—

(A) the offense is an offense under subsection (a)(1);

(B) the offense is an offense under subsection (a)(4) and involved 20 or more falsified electronic mail or online user account registrations, or 10 or more falsified domain name registrations;

(C) the volume of electronic mail messages transmitted in furtherance of the offense ex-

ceeded 2,500 during any 24-hour period, 25,000 during any 30-day period, or 250,000 during any 1-year period;

(D) the offense caused loss to one or more persons aggregating \$5,000 or more in value during any 1-year period;

(E) as a result of the offense any individual committing the offense obtained anything of value aggregating \$5,000 or more during any 1-year period; or

(F) the offense was undertaken by the defendant in concert with three or more other persons with respect to whom the defendant occupied a position of organizer or leader; and

(3) a fine under this title or imprisonment for not more than 1 year, or both, in any other case.

(c) **FORFEITURE.**—

(1) **IN GENERAL.**—The court, in imposing sentence on a person who is convicted of an offense under this section, shall order that the defendant forfeit to the United States—

(A) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

(B) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

(2) **PROCEDURES.**—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

(d) **DEFINITIONS.**—In this section:

(1) **LOSS.**—The term “loss” has the meaning given that term in section 1030(e) of this title.

(2) **MATERIALLY.**—For purposes of paragraphs (3) and (4) of subsection (a), header information or registration information is materially falsified if it is altered or concealed in a manner that would impair the ability of a recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation.

(3) **MULTIPLE.**—The term “multiple” means more than 100 electronic mail messages during a 24-hour period, more than 1,000 electronic mail messages during a 30-day period, or more than 10,000 electronic mail messages during a 1-year period.

(4) **OTHER TERMS.**—Any other term has the meaning given that term by section 3 of the CAN-SPAM Act of 2003.”.

(Added Pub. L. 108-187, §4(a)(1), Dec. 16, 2003, 117 Stat. 2703.)

**REFERENCES IN TEXT**

The Federal Rules of Criminal Procedure, referred to in subsec. (c)(2), are set out in the Appendix to this title.

Section 3 of the CAN-SPAM Act of 2003, referred to in subsec. (d)(4), is classified to section 7702 of Title 15, Commerce and Trade.

**EFFECTIVE DATE**

Section effective Jan. 1, 2004, see section 16 of Pub. L. 108-187, set out as a note under section 7701 of Title 15, Commerce and Trade.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in title 15 section 7703.

**CHAPTER 49—FUGITIVES FROM JUSTICE**

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|--|---|
| Sec.<br>1071.<br>1072.<br>1073.<br>1074. | Concealing person from arrest.<br>Concealing escaped prisoner.<br>Flight to avoid prosecution or giving testimony.<br>Flight to avoid prosecution for damaging or destroying any building or other real or personal property. |
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**AMENDMENTS**

1960—Pub. L. 86-449, title II, §202, May 6, 1960, 74 Stat. 87, added item 1074.

**§ 1071. Concealing person from arrest**

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined under this title or imprisoned not more than one year, or both; except that if the warrant or process issued on a charge of felony, or after conviction of such person of any offense, the punishment shall be a fine under this title, or imprisonment for not more than five years, or both.

(June 25, 1948, ch. 645, 62 Stat. 755; Aug. 20, 1954, ch. 771, 68 Stat. 747; Pub. L. 103-322, title XXXIII, §330016(1)(H), (K), Sept. 13, 1994, 108 Stat. 2147; Pub. L. 107-273, div. B, title IV, §4003(a)(3), Nov. 2, 2002, 116 Stat. 1811.)

**HISTORICAL AND REVISION NOTES**

Based on title 18, U.S.C., 1940 ed., §246 (Mar. 4, 1909, ch. 321, §141, 35 Stat. 1114).

Section 246 of title 18, U.S.C., 1940 ed., was divided. Part is in this section and the remainder is incorporated in section 752 of this title.

Minor changes were made in phraseology.

**AMENDMENTS**

2002—Pub. L. 107-273 substituted “fine under this title” for “fine of under this title”.

1994—Pub. L. 103-322 substituted “under this title” for “not more than \$1,000” after “person, shall be fined” and for “not more than \$5,000” after “shall be a fine of”.

1954—Act Aug. 20, 1954, increased the penalty from 6 months to 1 year where the violator harbored a person for whom process has been issued on a misdemeanor charge and inserted the penalty provision where the violation occurred after a person has been convicted of any offense or where a process has been issued for a felony.

**§ 1072. Concealing escaped prisoner**

Whoever willfully harbors or conceals any prisoner after his escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years.

(June 25, 1948, ch. 645, 62 Stat. 755.)